

Draft Social Due Diligence Report

Project Number: 51274-001
May 2018

Proposed Loans

Northern Bangkok Monorail Company Limited
Eastern Bangkok Monorail Company Limited
Bangkok Mass Rapid Transit Project (Pink and
Yellow Lines) (Thailand)

Bangkok Mass Rapid Transit Yellow Line Project
PART A Draft Social Safeguards Compliance Audit

Prepared for BSR Joint Venture, Eastern Bangkok Monorail Company Limited and the Asian Development Bank.

This draft social due diligence report is a document of the borrower. The views expressed herein do not necessarily represent those of ADB's Board of Directors, Management, or staff, and may be preliminary in nature.

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ABBREVIATIONS

| | |
|-----------------|---|
| ADB | Asian Development Bank |
| AREA | Agency for Real Estate Affairs |
| BMA | Bangkok Metropolitan Authority |
| BSR | BSR Joint Venture |
| BTS | BTS Group Holdings Public Company Limited |
| BTSC | Bangkok Mass Transit System Public Company Limited |
| CAP | Corrective Action Plan |
| DOH | Department of Highways |
| EBM | Eastern Bangkok Monorail Company Limited |
| EIA | Environmental Impact Assessment |
| EXAT | Expressway Authority of Thailand |
| GSB | Government Savings Bank |
| Km | Kilometer |
| MOT | Ministry of Transport |
| MRT | Mass Rapid Transit |
| MRTA | Mass Rapid Transit Authority of Thailand |
| NEB | National Environment Council |
| NBM | Northern Bangkok Monorail Company Limited |
| OCC | Operation Control Center |
| ONEB | Office of National Environmental Board |
| ONEP | Office of Natural Resources and Environmental Policy and Planning |
| OTP | Office of Transport and Traffic Policy and Planning |
| PPP | Public-Private Partnership |
| RATCH | Ratchaburi Electricity Generating Holding Public Company Limited |
| ROW | Right of way |
| SPS | Safeguard Policy Statement |
| SRT | State Railway of Thailand |
| STECON | Sino-Thai Engineering and Construction Public Company Limited |
| THB | Thai Baht |
| USD | United States Dollar |
| Wa ² | Square Wa |

Executive Summary

The Asian Development Bank (ADB) is considering financing the Mass Rapid Transit (MRT) Yellow Line Project (the Project through a private sector loan to the BSR Joint Venture (BSR). In this project, the Mass Rapid Transit Authority of Thailand (MRTA) will provide the land and the right of way (ROW) while BSR will invest in all civil works, M&E systems, and rolling stocks, including operations & maintenance services. Land acquisition and resettlement is part of MRTA's responsibility.

Project Description and Policy Context

The Yellow Line Project will start at Lat Phrao-Ratchada Road Junction in Bangkok Metropolis and will end in Samrong in Samut Prakarn Province. It will have interconnection with three existing lines (MRT Blue Line, Airport Rail Link and BTS Green Line) and two proposed lines (Orange and Grey). Its total length is 30.4 km and has 23 stations with additional two being proposed and waiting for government approval. The train technology is a straddle monorail system with an elevated structure standing above the road median. A Depot and Park and Ride facility will be components of the project.

The Yellow Line will be constructed under the public-private partnership (PPP) arrangement with the BSR as the private sector concessioner. The concession is for 33 years including three years for construction. The BSR is a consortium of BTS Group Holdings (BTS), Sino-Thai Engineering and Construction (STECOM) and Ratchaburi Electricity Generation Holding (RATCH). To operate the Yellow Line, the BSR established the Eastern Bangkok Monorail Company Limited (EBM). Preliminary works began in late 2017 with the main construction due to begin in the second quarter of 2018. The Yellow Line will have a service capacity of 10,000 to 40,000 passengers per hour in each direction and a maximum speed of 80 km/hour.

Land acquisition for the Yellow Line is being undertaken by MRTA following Thai laws. The land acquisition process began when the royal decree designating the area for acquisition was issued on 28 September 2015. In June 2017, ADB learned that limited-recourse financing is considered for the project while ridership risk remains a concern and identified ADB's potential value addition to the project. When ADB commenced its due diligence after the approval of the preliminary concept review in August 2017, the land acquisition process was underway with the first batch of compensation paid to affected people in May-June 2017. ADB considers project facilities existing when land acquisition is ongoing. For existing project facilities, the 2009 Safeguard Policy Statement (SPS) Safeguard Requirement 2 (SR2) on involuntary resettlement apply to resettlement actions conducted by the client in anticipation of ADB support (Paragraph 4 Appendix 2). Based on this timeline, land acquisition and resettlement activities being conducted by MRTA for the Yellow Line Project is not in anticipation of ADB support therefore does not fall within the ambit of SPS SR2 para4. But as a good practice, such actions were covered by this audit as part of the effort to assess the risk associated with the project.

Scope of Land Acquisition and Resettlement Impacts

The scope of land acquisition and resettlement impacts is first estimated as part of the preparation of the 2015 Report on Changes in Project Details in Environmental Impact Assessment (EIA) Reports on the Bangkok Mass Transit Yellow Line Project. It estimated that the Yellow Line Project will require the acquisition of 24.10 hectares distributed among 386 parcels. Further, 137

structures will be affected. The total value of the affected land and structures was estimated at USD 162.59 million, 88% of which was the value of land.

The project reduced land acquisition requirement in three ways: (i) selection of train technology; (ii) selection of station location; and (iii) modification of station design. Selecting the design of an elevated straddle monorail running mostly in the middle of the road was partly based on the need to reduce land acquisition. For train station location, one station will be located in non-road government land.

Further, modifications in the station design have been done for the same purpose and will continue until the compensation process is complete. Based on information on affected assets and indicative compensation offers obtained as of December 2017, land to be acquired was reduced to 21.85 hectares or 2.25 hectares less than the EIA estimate. There are 207 affected structures, 50.7% of which are commercial. Only four structures will be demolished entirely. There are 156 business owners who will be affected but only 55 have to relocate their business. Around 338 property owners will be affected, of which 37.6% have affected land. Given the total area of land for acquisition, an average land owner will lose 0.17 hectares. Around 96.8% of the land owners are private entities. There are also 44 tenants whose lease will be pre-terminated due to the project. The extent of land acquisition by station was validated in two reconnaissance surveys. The construction of all the 23 stations will affect private assets. Land will be acquired for 20 stations although the need to acquire land was not established for the three stations (4, 7 and 9). But the construction of all stations entails the damage to structures. The total impact on various assets is valued at 174,091,300.75 USD.

Legal Context

The main laws in Thailand applied to land acquisition and resettlement (LAR) issues in the project are the 2017 Constitution, 1987 Expropriation of Immovable Property Act and the 1997 Procurement of Immovable Property for Public Transportation Enterprises. Based on these laws, MRTA developed a land acquisition and compensation process. The process begins as one track that starts with the enactment of the expropriation decree and ends with the government agency offering the property owner the compensation contract. The track diverges into two tracts. Track 1 is followed when the property owner accepts the compensation offer. In this track, the owner signs the compensation agreement, receives the compensation, clears and vacates his property and hands it over to MRTA. Track 2 is followed when the property owner refuses the expropriation or compensation. The track begins with the MRTA depositing the compensation amount in the bank account in the name of the property owner. The property owner can appeal to MOT minister and if unsatisfied with the judgement of the minister, he can elevate it to the judicial process.

For compensation, the MOT Manual prescribes the methods of computing the compensation of each affected asset for compensation in accordance with laws. A compensation committee sets the rates. It is composed of the representatives of the following: (i) MRTA (Chair), Bangkok City Council, District Council, Land Department; and Community. In Nonthaburi Province which is covered by the Yellow Line, each district has a committee with representatives from the Department of Local Administration. The MRTA is the secretary of the committee. The committee receives all the data from the survey of affected properties from MRTA and use these to determine the compensation for each affected asset.

To determine the extent of the alignment of the LAR practices of MRTA for the Project with 12 applicable ADB principles, these are juxtaposed and assessed. The assessment showed alignment in nine requirements: (i) census of displaced persons specifically related to resettlement

impacts; (ii) conduct of meaningful consultation; (iii) disclosure of information to displaced persons on their entitlement and options; (iv) grievance redress mechanism; (v) assistance provision of displaced persons; (vi) improvement of living standards of vulnerable groups; (vii) non-land compensation and assistance to those without land titles; (viii) compensation payment before displacement; and (ix) monitoring of resettlement outcomes.

Two requirements are found not applicable. One is on negotiated settlement procedures because the project is applying expropriation. Another is the need to conduct meaningful consultations with vulnerable groups because the result of pre-construction survey identified no household living below the country's poverty line who can be considered vulnerable. On the requirement of livelihood restoration, it is deemed that the compensation for assets, the added compensation for the damages incurred in the transfer and expenditures for transactions, number of months compensation for lost monthly income as well as the ease in starting business in Bangkok will suffice to attain it.

Assessment of the Land Acquisition and Compensation Undertaken for the Yellow Line

The audit focused on the assessment of land acquisition and compensation activities undertaken by MRTA. To assess whether land compensation rates offered by MRTA are adhering to Thai legal requirements, land offer prices contained in the List of Determination of Initial Prices of Immovable Property are compared with three values: the latest Ministry of Treasury valuation of the same parcels, valuation of internet-advertisements, and indicative valuation of land in the vicinity of the parcels which were obtained from the database of rates of the Agency for Real Estate Affairs (AREA) which is a private real estate valuation company. The audit finds that the average MRTA land price is higher compared to the valuation of the Ministry of Treasury, internet-advertisements and AREA. *(This information has been removed as it falls within the exceptions to disclosure specified in para 97(v) of ADB's Public Communication Policy)*

Socio-economic Baseline

The eight districts traversed by the Yellow Line Project has 980,163 persons, 53.3% of whom are women. Their density of 2,573 persons per square kilometer is lower than Bangkok Metropolitan Region's density of 5,578 persons. Their average household has 1.85 members or lower than the metropolis' average of 2.73 persons.

Information Disclosure, Consultation and Participation Activities

The Yellow Line Project has five direct stakeholder groups: commuters, property users, business operators along the route, private service providers and government offices along the route. The property users are divided into two: households with expropriated assets and those with unaffected properties. In the long-term, all the stakeholder groups, except the households who will lose all their lands or structure and will move out far from their present location, will benefit from the project's provision of easier point-to-point access. Further, the property owners with unaffected properties and those with affected properties but will stay in the area along the route will gain from increased property value. But in the short-term, they will bear the brunt construction impacts.

Two public meetings were held for the Yellow Line. The first meeting (21-22 September 2013) had 337 participants and the second meeting (26 October 2013) had 353 participants. MRTA disclosed Information about the project these meetings and responded to the questions and opinions of the participants. The proceeding of the discussion was documented and made available in the MRTA website. More in-depth public engagement was undertaken through home visits and focused group discussions. Through these two activities, information on the project area was obtained, project information was given, opinions were exchanged and cooperation of various stakeholder groups was solicited. Other media were used as well. Pamphlets were distributed in meetings and public places and videos are available in the MRTA website. The website also has also the documentation of public hearings, reports on the progress of work, results of the various studies and feedback page where stakeholders can express their opinions and recommendations. Information about the project is also disseminated through print and broadcast media. Feedback was also obtained through a conduct of a questionnaire survey. The survey was undertaken among 1500 sample respondents representing the residents in the project route.

Information on land acquisition was also disclosed and disseminated through the activities required in the 1987 Immovable Property Expropriation Act and 1997 Act on Procurement of Immovable Property for Public Transportation Enterprises, 2540 (1997). These activities are as follows: (i) posting of the Royal Decree in public places and its promulgation in the Government Gazette (ii) survey of the conditions of the affected assets; (iii) announcement of the compensation rates set by the compensation through posts in public places; (iv) disclosure of the minutes of the meeting of the compensation committee; and (v) notifications to the property owners on the conduct of the survey, compensation rates and payment of compensation.

Grievance Mechanism

The 1987 Immovable Property Expropriation Act and the 1997 Act on Procurement of Immovable Property for Public Transportation Enterprises provide similar formal redress mechanism for two cases: disagreement on the compensation set by the Compensation Committee and need to expropriate unusable residual portion of a property after a portion is expropriated. In the first case, the complainant will appeal to the MOT minister within 60 days from the receipt of written notice to collect the compensation. The minister in turn must send his decision within 60 days from

receipt of appeal. If the minister's decision is not received within 60 days or the complainant disagrees with it, he can file the case in court within one year from the receipt of the decision or expiry of the prescribed period to receive a decision.

On the second case, the property owner must request the expropriation officer to expropriate the residual property. If it is rejected, he can appeal to MOT minister within 60 days from the receipt of rejection, who in turn, must deliver his decision within 60 days. If the decision is not delivered within this period, it is deemed favorable to the property owner. Through public information dissemination and consultation activities and individual meetings, affected property owners and tenants are informed on grievance redress procedures. This information is also contained in the pamphlets prepared and distributed by MRTA. The chance that a grievance is filed reduced by the informal negotiation.

Institutional Arrangement for Land Acquisition and Compensation

MRTA is undertaking the land acquisition and compensation process for the project. As a unit of the MOT, it is supervised by the Office of the Minister. MRTA's involvement in land acquisition starts when its MRT project is approved by the Council of Ministers. Based on the approved plan, MRTA conducts a preliminary survey on land characteristics of the project area including land ownership and non-movable assets. It starts with the notification of the public and property occupant at least 30 days in advance. Based on the survey result, the Royal Decree specifying the ROW of the project is drafted, approved by the Council of Ministers and enacted into a law by the king. The decree is disseminated with the MOT minister heading the execution.

Land acquisition as an impact is covered by the EIA. The MRTA, through a consulting firm prepares the EIA document in conjunction with the conduct of the feasibility study to incorporate its mitigating measures in the design. The Council of Ministers, upon the recommendation of the National Environment Board (NEB) gives the final approval of the EIA because the proponent is a state enterprise. After MRTA surveyed the land for expropriation, the Minister appoints a Compensation Committee to estimate the prices of the properties for expropriation and the compensation rates. Compensation rates established by the committee are disseminated in the project area. MRTA negotiate the purchase agreement with property owners, pays compensation within 120 days of signing and prepare legal documents to acquire property. If the property owner will file a case, MRTA will deposit the compensation in an escrow account. During construction phase, the contractor pays for the damage resulting from construction activities.

Implementation Schedule and Budget

The Yellow Line Project is scheduled to operate in 2022. The land acquisition process started with the issuance of the Royal Decree on 28 September 2015. On August 2017, the full inventory of affected people and assets was completed and land acquisition and compensation were 22% complete. The percentage of completion is expected to be 75% in March 2018. The total construction cost is estimated at 55 Billion THB.

Conclusion and Recommendations

The audit finds that the land acquisition and compensation process followed the provisions of Thai laws and the MOT manual. MRTA's practices on land acquisition and resettlement for the Yellow Line are in line with ADB's SPS SR2 on Involuntary Resettlement. During EIA preparation, MRTA requires the EIA preparer to assess the land acquisition and resettlement impacts and calculate the budget required, discloses information on project impacts, explain the land acquisition process

and eligibilities of affected people. MRTA also participates in the consultations with affected people. Such information is documented and incorporated in the EIA. Following the approval of the EIA by the NEB, a decree is issued and the detailed resettlement planning and implementation process which is consistent with ADB requirements. MRTA has taken due care to assess the nature and scope of impacts on each affected property; conducted a census and full asset inventory, and disclosed information on impacts, entitlements and compensation to affected people. Compensation standards and methodology for valuating land have been validated. This audit report documents the process and follows the components of a resettlement plan in its outline and scope.

With respect to key principles, such as the need to avoid and/or minimize impacts, for example, the audit shows that the Yellow Line project implemented measures to reduce land acquisition through technology selection, station location and modification of station design. The result is the reduction of the area for land acquisition from 24.10 hectares in October 2015 to 21.85 hectares in October 2017.

Where the audit found sufficient information to be able to compare the market prices for the land being acquired, the audit finds that compensation offers issued by MRTA for affected assets are equivalent to or above the market rate and therefore adheres to Thai legal requirements. In addition to compensation rates at market rates, MRTA also covers administrative or transaction costs, among other assistance which aligns MRTA practices with ADB SPS SRS2 requirements for compensation at replacement cost. Where there are MRTA land price offers lower than the internet advertised prices or with real estate appraisal company's valuation or both, this is likely due several reasons (i) internet advertised asking prices most likely shows the price of land and structures given that the Project area is in a heavily built urban metropolis, (ii) the parcel's peculiarities – shape of land or the distance of the parcel from the area referenced in the real estate appraisal company's valuation; (iii) lack of data on sales of land in the vicinity. Nevertheless, MRTA has a robust and effective grievance mechanism. If it is deemed the prices offered is unfair, affected people can access the grievance. The law further provides that the minister with the approval of the Council of Ministers can order the Compensation Committee to reappraise the prices and reset the compensation rates.

In terms of compensation for other assets, namely structures, crops and trees, MRTA attests that these are being paid following Thai laws, the MoT Compensation Manual and MRTA practices. The audit also finds that affected property owners can easily obtain the price of building materials from the Bureau of Trade and Economic Indices, Office of Permanent Secretary of Ministry of Commerce, or Provincial Commercial Office. They can also get the labor cost from the Budget Standard Bureau, Bureau of the Budget and from the Ministry of Labor. For trees, the price estimate is in the Provincial Agricultural Extension Office. Hence, affected people can readily check the computation, and negotiate for a price they consider more fair through the grievance mechanism.

Based on the replacement value of the amount of compensation for lost income, payment for various transfer costs, duration of monthly compensation payment and time required to establish a new business in Thailand, it is seen that the MRTA arrangement would suffice to restore livelihood of affected person.

With respect to monitoring and reporting, MRTA requires monthly and semi-annual external monitoring of the Environmental Management Plan. However, this does not cover progress of land acquisition and resettlement. These are monitored by MRTA separately. ADB proposes to

engage an independent social monitor to work with MRTA to prepare reports semi-annually of the progress of land acquisition and resettlement for the Project up to completion.

MRTA has been continuously negotiating with affected people and provided information demonstrating a functional grievance mechanism which is responsive to people's concerns through various changes made in Project specifications in order to accommodate requests and minimize impacts to properties. This audit concludes that the reputational risk to ADB and risks to the Project of MRTA-led land acquisition and compensation activities is low.

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Chapter 1: Introduction and Policy Context

1.1 Introduction

1. The Asian Development Bank (ADB) is considering financing the Mass Rapid Transit (MRT) Pink and Yellow Lines (the Project) through a private sector loan to the BSR Joint Venture (BSR). The Project aims to mitigate traffic congestion and associated environmental issues, and to provide convenient and cost-effective public transportation system. The Project is to be implemented under the PPP Net Cost scheme in which Mass Rapid Transit Authority of Thailand (MRTA) is responsible for provision of the land and the right of way (ROW) while the private sector (BSR) will invest in all civil works, M&E systems, and rolling stocks, including operations & maintenance services.


1.2 Project Description

2. The Yellow Line Project is one of the mass rapid transits (MRT) incorporated into Mass Rapid Transit Master Plan in Bangkok Metropolitan Region (M-MAP). The plan which was first drafted by the Office of Transport and Traffic Policy and Planning (OTP) of the Ministry of Transport (MOT) was approved by the cabinet in 1994. The plan underwent revisions and the current version was endorsed by the Commission for the Management of Land Traffic on 8 February 2010. It designates eight primary routes: two commuter rail lines, an airport rail link and five rapid transit lines, as well as four feeder lines. The total length of the routes, is 555.74 km which is to be constructed between 2010 and 2029. The radial pattern is designed to expand development from urban to suburban part of Bangkok as a metropolitan region. Among the five rapid transit lines, the Orange, Pink and Yellow lines have received cabinet approval while the rest are still being studied.

3. The Yellow Line is designed to have interconnection with three existing lines (MRT Blue Line, Airport Rail Link and BTS Green Line) and two proposed lines (Orange and Grey) (Map 1). It will start in Lat Phrao-Ratchada Road Junction in Bangkok Metropolis where it will interconnect with MRT Blue Line Lat Phrao Station and will end in Samrong in Samut Prakan Province where it will interconnect with BTS Green Line Samrong Station (Table 1). The line will generally follow the Srinagarindra and Thepla Rak Roads. It is 30.4 km in length and has 23 stations with additional two being proposed and waiting for government approval.

Table 1: Yellow Line stations, number of platforms, transfer lines and province

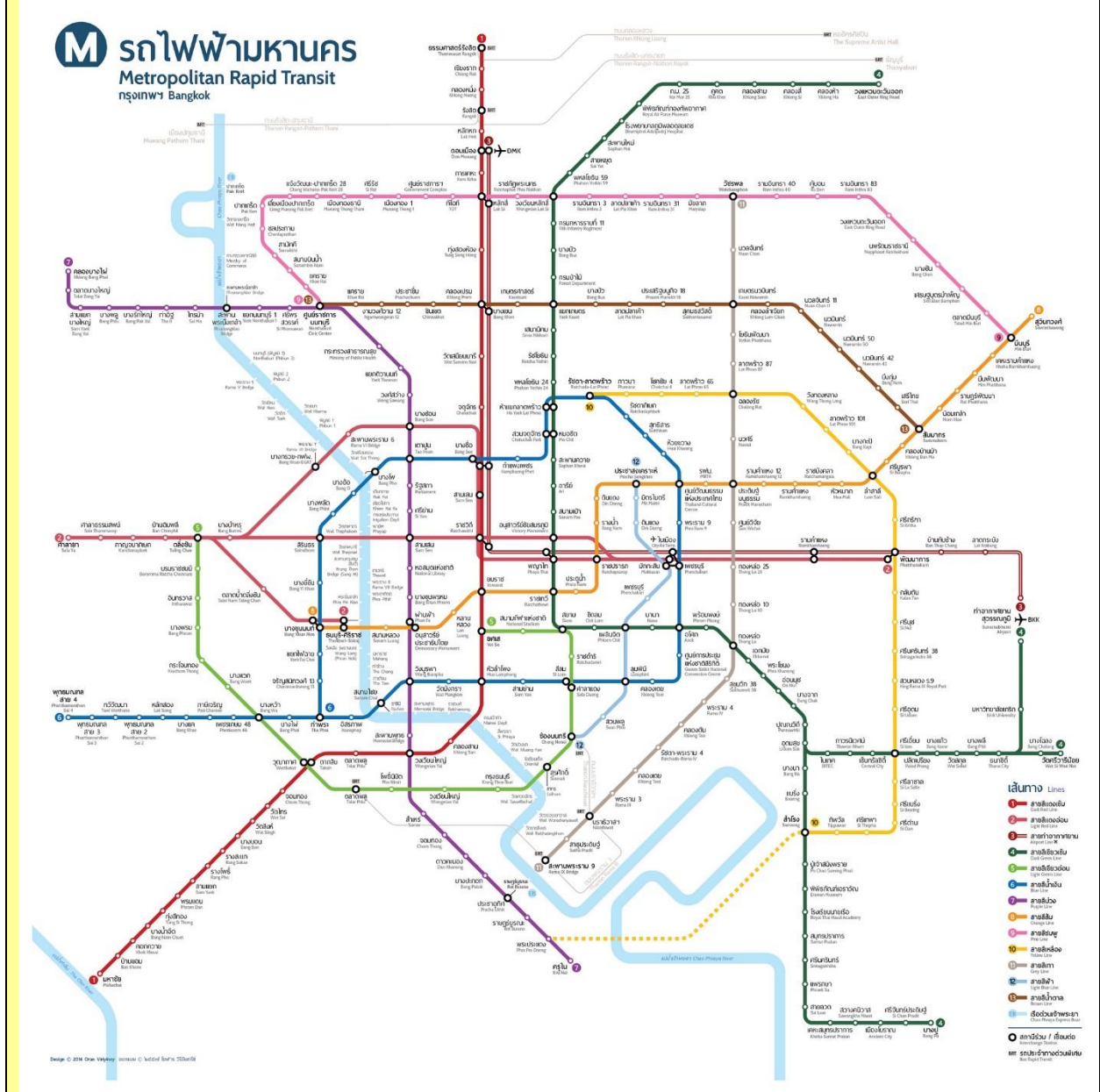
| Code | Name | Transfers | Province |
|-------|-----------------------|------------------------------------|----------|
| YL-01 | Ratchada Station | MRT Blue Line & Park & Ride | Bangkok |
| YL-02 | Phawana Station | | |
| YL-03 | Choke Chai 4 Station | | |
| YL-04 | Lat Phrao 71 Station | | |
| YL-05 | Lat Phrao 83 Station | MRT Grey Line | |
| YL-06 | Mahat Thai Station | | |
| YL-07 | Lat Phrao 101 Station | | |
| YL-08 | Bang Kapi Station | | |
| YL-09 | Lam Sali Station | MRT Orange Line | |
| YL-10 | Sri Kritha Station | | |

| Code | Name | Transfers | Province |
|-------|----------------------------|---|--------------|
| YL-11 | Patthanakan Station | SRT Light Red Line &  ARL Airport Rail Link & Eastern Railway Line | |
| YL-12 | Kalantan Station | | |
| YL-13 | Si Nut Station | | |
| YL-14 | Srinagarindra 38 Station | | |
| YL-15 | Suan Luang Rama IX Station | | |
| YL-16 | Si Udom Station | | |
| YL-17 | Si lam Station | BTS Green Line & Park & Ride, Depot | |
| YL-18 | Si Lasalle Station | | |
| YL-19 | Si Bearing Station | | Samut Prakan |
| YL-20 | Si Dan Station | | |
| YL-21 | Si Thepha Station | | |
| YL-22 | Thippawan Station | | |
| YL-23 | Samrong Station | BTS Green Line | |

4. The Yellow Line is a straddle monorail system with an elevated structure standing above the road median. The height of the standard station is 15 meters above ground, with the platform being 20-25 meters wide and 110 meters long. A depot will be located in Hua Mark adjacent to the YL Station 17. Preliminary works by the concessionaire began in late 2017 with the main construction due to begin in the second quarter of 2018. The estimated construction cost is 55 Billion THB.

5. The Yellow Line will be constructed under the public-private partnership (PPP) arrangement. The Thai Cabinet approved the implementation of the Yellow Line in March 2016. In December 2016, BSR won the concession bid for the line. The concession is for 33 years including three years for construction. The BSR is a consortium of BTS Group Holdings (BTS), Sino-Thai Engineering and Construction (STECOM) and Ratchaburi Electricity Generation Holding (RATCH). BTS owns 75% of BSR. On June 2017, the concession contract was signed between the MRTA and the consortium. To operate the Yellow Line, the BSR established the Eastern Bangkok Monorail Company Limited (EBM).

Map 1: General location of the Yellow Line and interconnections with other lines



6. During operation, the Yellow Line will have a service capacity of 10,000 to 40,000 passengers per hour in each direction and a maximum speed of 80 km/hour. It is scheduled to be operational in 2022.

1.3. Policy Context

7. As part of its due diligence, ADB needs to determine whether ADB 2009 Safeguard Policy Statement (SPS) Safeguards Requirements are applicable.

8. The Yellow Line Project will affect private assets, mainly land and structures which are being acquired following Thai laws on land ownership and expropriation. The land acquisition process began when the royal decree designating the area for acquisition was issued in 28 September 2015 for the Yellow Line Project.

9. When land acquisition is ongoing or completed, ADB considers the project facilities existing. For existing project facilities, the SPS involuntary resettlement requirements apply to resettlement actions conducted by the client in anticipation of ADB support (Paragraph 4 Appendix 2). The tender process of Pink and Yellow Lines was undertaken in 2016 when the respective land acquisition was already ongoing and not in anticipation of any ADB support. In June 2017, ADB learned that limited-recourse financing is considered for the project while ridership risk remains a concern, and identified ADB's potential value addition to the project.

10. As shown in Figure 1, when ADB commenced its due diligence in the project after the approval of the preliminary concept review in August 2017, the land acquisition process by Government of Thailand through MRTA was underway. By this time, MRTA has completed the full inventory of affected people and assets and land acquisition and compensation were 22% complete. The land acquisition process is expected to be 79% complete by end of March 2018 (see Table 2). Based on the implementation arrangements and sequence of events, it should be noted that resettlement actions are not being conducted by BSR, ADB's borrower/client. Land acquisition and resettlement is being undertaken by MRTA and not ADB's borrower/client. Based on the timeline presented, land acquisition and resettlement actions by MRTA for the Project are not in anticipation of ADB support as it commenced in September 2015 even prior to ADB's involvement in the Project in June 2017 and therefore does not fall within the ambit of SPS SR2 para 4. Moreover, BTS has in mind to obtain financing from Bangkok Bank which is their main relationship bank and with syndication with other Thai banks in mind principally. This is documented in the tender documents to satisfy the tender requirement for BSR in 2016.,

Figure 1 Project Timelines

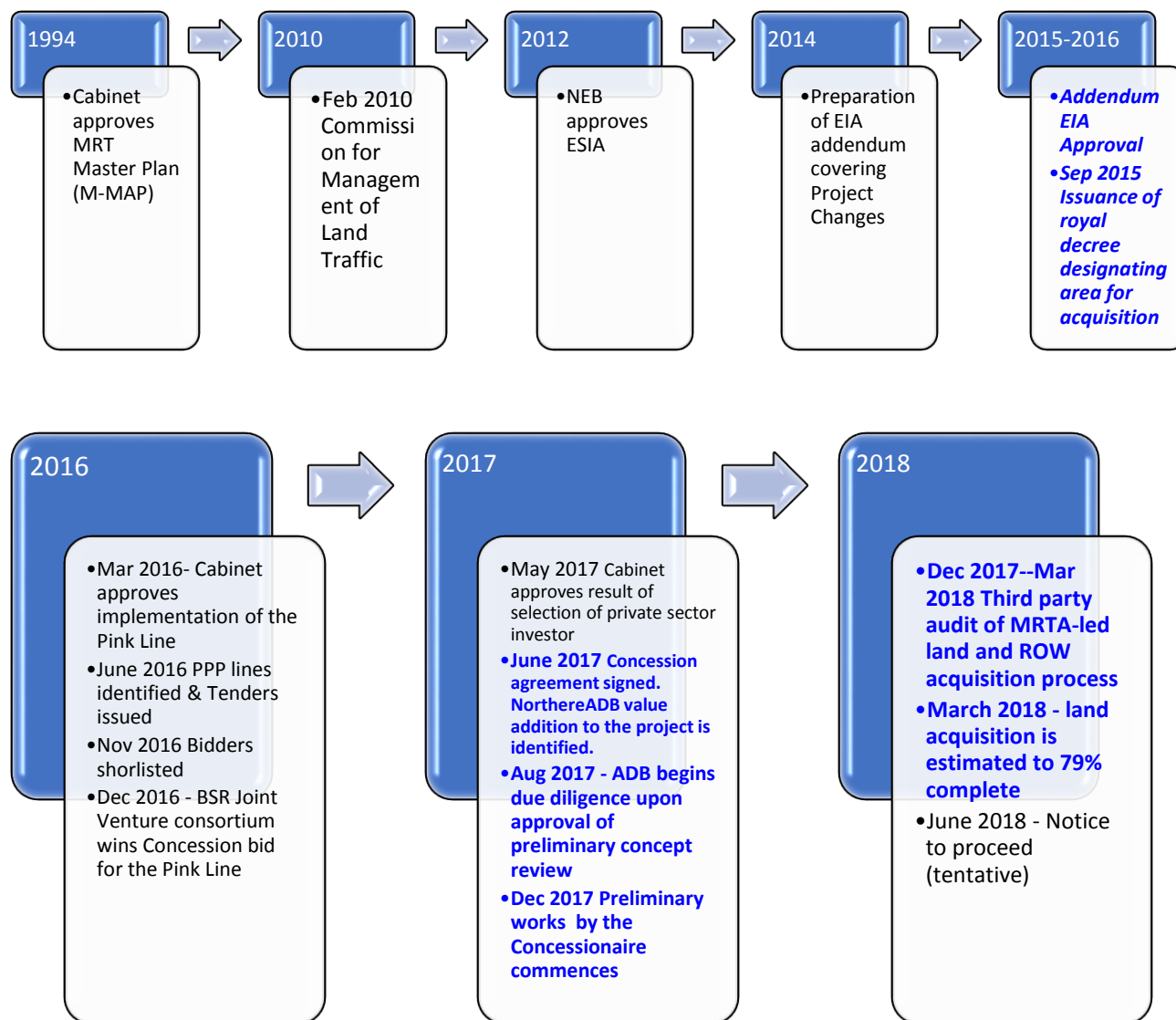


Table 2. Yellow Line Progress as of February 2018

(This information has been removed as it falls within the exceptions to disclosure specified in para 97(v) of ADB's Public Communication Policy)

11. As a good practice as recommended under ADB's draft 2012 Involuntary Resettlement Safeguards: A Planning and Implementation Good Practice Source Book such actions will be looked into as part of the effort to assess the risk associated with the project. The draft Good Practice Source Book provides that:

"In most cases, it is also important for ADB's due diligence to assess potential risks associated with the project, even if the previous resettlement actions are not done in anticipation of ADB support.....The same scrutiny would be required in cases where (i) land acquisition is still in progress, (ii) project authorities are not aware that the related

project may be financed by ADB, and (iii) ADB and the borrower have yet to decide on whether or not to include it in ADB financing (Paragraph 19).”

12. While the project timeline in Figure 1 establishes that land acquisition and resettlement is not in anticipation of ADB financing, a social safeguards compliance audit was undertaken. The audit to identify past or present concerns related to involuntary resettlement impacts (Appendix 4 Paragraph 12), determine MRTA adherence to relevant national laws and alignment with ADB SPS SR2 requirements.

13. The MRTA land expropriation process mainly followed two Thai laws: Expropriation of Immovable Property Act of B.E. 2530 (1987) and the Procurement of Immovable Property for Public Transportation Enterprises BE 2540 (1997). The first law provides the general procedures that the government must comply in expropriating any immovable property for public utilities and other public interests if the transfer of ownership between the private owner and concerned government agency is not agreed upon. The second law adapts the first law to the needs of public transportation enterprises specifying the activities and entities involved in the land acquisition process in the construction, expansion, rehabilitation or large-scale improvement of transportation system. It also defers to the first law by providing that in case the ownership of the property will be acquired for a transportation enterprise, the first law will be followed. The MOT translated the procedures of determining the amount of compensation in the two laws into operational detail through the Manual of Compensation. As a MOT unit, the MRTA uses this manual in the land acquisition process for the Yellow Line Project.

1.4. Methodology

14. Primary and secondary information are used to conduct social due diligence on the Yellow Line Project. The sources of primary information are on-site observation, interview with the personnel of MRTA, BTS and STECON and attendance in project meetings. The secondary information are documents from MRTA, Ministry of Treasury, Agency for Real Estate Affairs (AREA) which is a private real estate valuation company, as well as reports, studies and discrete data available in the internet. The documents that MRTA provided are as follows:

- List of the Determination of Initial Prices of Immovable Property to be Expropriated and the Amount of Compensation;
- Minutes of Monthly Meetings of MRTA and their consultants on Land Acquisition Process;
- MRTA Requirements: Part 1: Civil Works, Appendix 5: Environmental Protection Requirements;
- Report on Changes in Project Details in the EIA Reports on the Bangkok Mass Transit Yellow Line Project: Lat Phrao – Samrong. (2015). Prepared by Asian Engineering Consultants Co., Ltd., Hamburg-Consult GmbH, D2 Consult Asia Co., Ltd, Wisit Engineering Consultants Co., Ltd., Prime Street Advisory Co., Ltd. (Thailand), and Enrich Consultant Co., Ltd.; and,
- Results of a Socio-economic Survey Conducted October-December 2017.

15. Information from the Ministry of Treasury and AREA include data on land prices in the vicinity of the selected stations. These land prices are used to establish that the compensation amount determined by Compensation Committee is at par with the market rate. The reports obtained from the internet include the 2016 annual reports to the stockholders of BTS, STECON and RATCH, census reports of the Thailand National Statistics Office, investment fund information

memorandum and news reports. The studies from the same source are articles published independently and in academic journals, studies made for academic degrees and market studies.

1.5. Limitations of the Audit

16. The audit was conducted with several limitations. First was data availability. At the time the audit was conducted, MRTA Yellow Line Land Acquisition Team was able to provide compensation offers publicly issued by the respective compensation committee for all parcels of land required. However, due to continuing modifications in order to respond to grievances and minimize impacts, final exact number of people, structures, trees and affected business are not yet known although it is appropriate to conclude that extent of impacts identified in the EIA is being reduced.

17. Second, validating the land compensation rates in the offer issued by the committee against the market rates can only be done in two ways. One is by comparing the amount with the prices of Ministry of Treasury. The government determines the price of land per parcel through the Ministry of Treasury to serve as basis for tax assessment. But the prices of the Ministry of Treasury have two limitations: prices are available only for certain parcels and the available prices are determined in 2018 while MRTA and the respective compensation committees used the value appraised by the Treasury Department for land registration made for the 2012-2015 period and the economic internal rate of return (which MRTA's research department provided as representing the price escalation from the date Ministry of Treasury prices were issued and the time of issuance of compensation offers in 2017) as some of the factors in setting the compensation rates. Another way was using the internet advertised prices and real estate valuation prices for comparison to the compensation rate. The internet advertised and real estate valuation prices available are, however, not of the acquired parcels but parcels in its vicinity. In the case of the real estate valuation prices, their sample zone (composed of four parcels) are along the main road while the parcel to be acquired includes roads in the interior, including to those without road access. Further, the lowest price among the parcels composing the sample zone was not available because the real estate valuator published only the average price of the four parcels. The MRTA price can be above the lowest sample parcel price but below the average price. MRTA has also acquired parcels where market price is difficult to establish and no records of sale for a similar property can be used as a factor in setting the compensation rate. One is the case of the agricultural and grassland land earmarked as the depot where the only available record of sale in the vicinity is in a nearby gated community. Another is the private road which practically has no market because there are no potential buyers. Where there are no available comparator valuations, the audit an approximate value by deducting the price escalation over time from the compensation offer.

18. Third, is the confidentiality of information and sensitivity of the negotiation between the landowners and MRTA preventing the interview of affected people and disclosure to a third party of the actual price paid as compensation and the information exchanged during consultations. This limitation is addressed by reviewing the grievance mechanism being implemented by MRTA and sample records of consultations with affected residential and commercial property owners to determine whether they have access to information, capacity and resources to negotiate effectively with MRTA.

Chapter 2: Scope of Land Acquisition and Resettlement Impacts

19. The construction of the Yellow Line and its depot and Park and Ride components will result to land acquisition and affect other private assets and commercial structures. The scope of land acquisition and resettlement impacts was first estimated as part of the preparation of the Report on Changes in Project Details in the EIA Reports on the Bangkok Mass Transit Yellow Line Project: Lat Phrao – Samrong (2016). The affected areas and structures were estimated based on existing project information and field survey. The continuing modification of the project design entailed changes in the scope of land acquisition and resettlement impacts. In November 2017, the MRTA provided documents containing information on the properties and damages to be compensated of 338 property owners and 44 tenants and the initial amount of compensation.¹ In 17-20 October and 7-13 November 2017, ADB conducted a site reconnaissance survey. The survey identified the stations where land acquisition will occur, the type of resettlement impact and to a certain extent, a broad estimate of the land and structures affected.

2.1 Scope of Land Acquisition and Resettlement Impacts Per Report on Changes in Project Details in the EIA Reports

20. The Report on Changes in Project Details in the EIA Reports (2015) estimated that the construction of the Yellow Line will require the acquisition of 24.10 hectares (**Table 3**). But only 4.50 hectares will be acquired for the stations. The 19.60 hectares or 82% will be used for the depot and Park & Ride Facility. In addition to land, 170 structures will be affected. Around 58.8% of these structures are commercial in use, most of these are shops. The total value of the affected land and structures is estimated to be USD 47,708,471.16 million, of which 70.0% is the value of land. The rest is the value of structures and other assets.

Table 3 Estimated Affected Land and Structures and Their Value in Amended EIA: October 2015

| Item | In Thai Measurement | Equivalence | Percent |
|----------------------------------|-----------------------------------|---|---------|
| Land to be Acquired | | | |
| Total | 150 rai 2 ngan 41.1 sq. wah | 24 ha. 800 sq. m. <u>164.4 sq. m.</u> Total: 24.10 ha. | 100 |
| Stations | 27 rai 3 ngan 161.8 sq. wah | 4.32 ha. 1,200 sq. m. <u>647.2 sq. m.</u> Total: 4.50 ha | 19 |
| Structures to be Affected | | | |
| Residential buildings | 33 | | |
| Houses | 32 | | |
| Condominium | 1 | | |
| Commercial | 100 | | |
| • Shops | • 85 | | |
| • market | • 1 | | |
| • bank | • 1 | | |
| • gas station | • 1 | | |
| • hospital | • 1 | | |
| • garages | • 7 | | |

¹ MRTA. List of the Determination of Initial Prices of Immovable Property to be Expropriated and the Amount of Compensation.

| Item | In Thai Measurement | Equivalence | Percent |
|--|--|-------------------|---------|
| <ul style="list-style-type: none"> • parking garage • warehouses | <ul style="list-style-type: none"> • 1 • 2 | | |
| Other | 4 structures <ul style="list-style-type: none"> • 1 abandon building • 1 billboard • 1 toilet | | |
| Total | 170 | | 100 |
| Status | Note: Public/Private status is not provided in the EIA or appendices | | |
| Public | | | |
| Private | | | |
| Total | | | |
| Value | | | |
| Land | THB 1,041,491,350 | USD 33,197,536.78 | 70 |
| Structures | THB 455,245,000 | USD 14,510,934.38 | 30 |
| Other Items | | | |
| Total | THB 1,496,736,350 | USD 47,708,471.16 | 100 |

Source: Report on Changes in Project Details in the EIA Reports on the Bangkok Mass Transit Yellow Line Project: Lat Phrao-Samrong, combining the EIA Report for the MRT Yellow Line Project (Ratchada-Lat Phrao-Phatthanakan) and the EIA Report for the MRT Dark Yellow Line Project (Phatthanakan-Samrong); prepared by Asian Engineering Consultants Co., Ltd; Hamburg-Consult GmbH; D2 Consult Asia Co., Ltd; Wisit Engineering Consultants Co., Ltd; Prime Street Advisory Co., Ltd. (Thailand); and, Enrich Consultant Co., Ltd; April 2016, pp. 5-88, 5-89.

2.2 Scope of Land Acquisition and Resettlement Impacts Per List of Determination of Initial Prices of Immovable Property to be Expropriated and the Amount of Compensation

Number and Ownership Status and Gender of Affected Persons

21. The 338 affected entities (persons and corporations) in the List of the Determination of Initial Prices of Immovable Property to be Expropriated and the Amount of Compensation include property owners and tenants (Table 4). The affected person is the one identified as the owner or renter of the property. The property includes land, structures and trees. Around 20.0% of them are in Samut Prakan Province while the rest are from Bangkok Metropolis. Those from the Bangkok Metropolis are from seven districts. The affected persons from Samut Prakan Province are two districts.

22. Among the affected persons, only 43 or 12.7% are tenants. Around 27.0% of the affected people are in Prawet District. Around 48.3% of the affected entities are men and 48.8% are women. The rest are corporations. There are almost the same number of men and women among owners. But there are more women than men among tenants.

Table 4. Yellow Line Project: Number of Affected Property Owners Based on the List of the Determination of Initial Prices of Immovable Property to be Expropriated and the Amount of Compensation (Disaggregated by Gender)

| District | Affected Persons | | | | | | |
|------------------------------|------------------|------------|-----------|-----------|-----------|------------|------------|
| | Property Owners | | Tenants | | | Total | |
| | Male | Female | Male | Female | Corporate | No. | % |
| Bangkok Metropolis | | | | | | | |
| Chathujak | 0 | 1 | 0 | 0 | 0 | 1 | 0.26 |
| Huay Khwang | 9 | 9 | 2 | 4 | 0 | 24 | 6.29 |
| Wang Thonglang | 35 | 22 | 7 | 11 | 3 | 78 | 20.47 |
| Bangkapi | 10 | 7 | 2 | 0 | 3 | 22 | 5.77 |
| Suan Luang | 23 | 14 | 0 | 0 | 1 | 38 | 9.97 |
| Prawet | 47 | 50 | 1 | 2 | 3 | 103 | 27.03 |
| Bangna | 11 | 28 | 0 | 0 | 0 | 39 | 10.23 |
| Samut Prakan Province | | | | | | | |
| Bangpli | 1 | 4 | 0 | 0 | 0 | 5 | 1.31 |
| Muang | 34 | 33 | 2 | 1 | 1 | 71 | 18.63 |
| Total | 170 | 168 | 14 | 18 | 11 | 381 | 100 |

Source: MRTA. Yellow Line Project. List of the Determination of Initial Prices of Immovable Property to be Expropriated and the Amount of Compensation. December 2017.

Affected Land and Ownership

23. The 2017 MRTA inventory of affected assets determined that the land to be acquired for the Yellow Line is only 9.6 hectares (Table 5). This area is less than half of the area for land acquisition estimated in the EIA. The other assets that will be affected are trees, and businesses. The total damage is valued at 174,091,300.75 USD.

24. Based on the List of the Determination of Initial Prices of Immovable Property to be Expropriated and the Amount of Compensation, 146 or 48.5% of the affected persons are land owners (Table 6). They hold a total 286 titles. Each title representing one land parcel. One land owner can have more than one parcel. One parcel can also have more than one owner. The multiple owners of a parcel can belong to one household or each may have a separate household. A number of parcels can have also the same multiple owners. This means that the 146 land owners have an average of 1.9 parcels.

Table 5
Total Number of Affected Land, Structures, Other Assets and Their Estimated Value As of 2017
(Data provided by MRTA)

(This information has been removed as it falls within the exceptions to disclosure specified in para 97(v) of ADB's Public Communication Policy)

Table 6
Number of Land Owners, Titles, Land Area Owned and Acquired Based on the List of the Determination of Initial Prices of Immovable Property to be Expropriated

| District | Number of Land Owners | Number of Titles Held | Land Owned in Expropriated Area (in wa ²) | Size of Expropriated Land (in wa ²) (including land with structures) | Percent of Expropriated Land to Total Area Owned |
|------------------------------|-----------------------|-----------------------|---|--|--|
| Bangkok Metropolis | | | | | |
| Chathujak | 1 | 2 | 150 | 46.9 | 31 |
| • State land | | | 697.5 | 697.5 | 100 |
| Huay Khwang | 6 | 8 | 702 | 185.2 | 26 |
| Wang Thonglang | 30 | 41 | 5,550.6 | 1,784.1 | 32 |
| Bangkapi | 17 | 22 | 27,446.5 | 1,535.2 | 6 |
| Suan Luang | 18 | 21 | 5,564 | 1,448.2 | 26 |
| Prawet | 34 | 133 | 35,145.5 | 12,628.9 | 36 |
| Bangna | 7 | 14 | 1,893 | 557.9 | 29 |
| Samut Prakan Province | | | | | |
| Bangpli | 2 | 2 | 15,639 | 3,720.5 | 24 |
| Muang Samut Prakan | 31 | 44 | 27,113.5 | 1,499.2 | 6 |
| Total | 146 | 286 | 119,901.6 | 24,103.60 | 20 |

Source: MRTA. List of the Determination of Initial Prices of Immovable Property to be Expropriated and the Amount of Compensation, December 2017

25. Among the affected property owners, only land will be expropriated for 22.0% (Table 7). For 36.0%, expropriation will cover both land and structures. But expropriation will only affect structures for 43.0 percent. Apart from land acquisition and effect on structures, there are other resettlement impacts. Among the affected persons, those whose trees will be affected compose 16.8 percent (Table 8). Around 47.5% has business that will be affected. Around 17.5 have to relocate either their home or their business and have to be provided for transfer expenses.

Table 7
Number of Affected Land and Structure Owners Based on the List of the Determination of Initial Prices of Immovable Property to be Expropriated

| District | Land Only | Land & Structure | Structure Only | Total |
|------------------------------|-----------|------------------|----------------|--------------|
| Bangkok Metropolis | | | | |
| Chathujak | 0 | 1 | 1 | 2 |
| Huay Kwang | 0 | 6 | 5 | 11 |
| Wang Thonglang | 11 | 19 | 14 | 44 |
| Bangkapi | 1 | 16 | 9 | 26 |
| Suan Luang | 9 | 9 | 21 | 39 |
| Prawet | 18 | 16 | 38 | 72 |
| Bangna | 4 | 3 | 6 | 13 |
| Samut Prakan Province | | | | |
| Bangpli | 1 | 1 | 1 | 3 |
| Muang | 11 | 20 | 12 | 43 |
| Total | 55 | 91 | 109 | 255 |
| Percentage | 22 | 36 | 43 | 100.0 |

Source: MRTA. List of the Determination of Initial Prices of Immovable Property to be Expropriated and the Amount of Compensation, December 2017

Table 8
Number of Households with Other Resettlement Impacts Based on List of the Determination of Initial Prices of Immovable Property to be Expropriated

| District | Tenants with Unexpired Rent | Trees | Damage Due to Expropriation of Whole House | Damage to Business | Damage Due to Provision of New Residence or Business Location |
|------------------------------|-----------------------------|-------|--|--------------------|---|
| Bangkok Metropolis | | | | | |
| Chathujak | 0 | 0 | 0 | 0 | 1 |
| Huay Kwang | 5 | 1 | 0 | 13 | 3 |
| Wang Thonglang | 21 | 10 | 1 | 27 | 10 |
| Bangkapi | 4 | 8 | 4 | 15 | 8 |
| Suan Luang | 4 | 6 | 0 | 18 | 9 |
| Prawet | 8 | 10 | 0 | 38 | 14 |
| Bangna | 0 | 1 | 0 | 6 | 1 |
| Samut Prakan Province | | | | | |
| Bangpli | 0 | 2 | 1 | 0 | 2 |
| Muang | 4 | 13 | 1 | 27 | 5 |
| Total | 46 | 51 | 7 | 144 | 53 |

Source: MRTA. List of the Determination of Initial Prices of Immovable Property to be Expropriated and the Amount of Compensation, December 2017

Estimated Number of Affected People

26. The Yellow Line will affect 146 landowners and 43 purely structure owners or a total of 189 persons. Multiplied by the average household size of 2.7, the total number of affected persons can be estimated at 1,350. But the seven owners who will entirely lost their structure are equivalent to only 19 persons. The 53 persons who will lose their residential or business location and have to transfer are equivalent to 143 persons.

Table 9
Number of Affected Persons Based on the Data in the List of the Determination of Initial Prices of Immovable Property to be Expropriated

| Item | Number Based on MRTA List of Determination | Percentage | Projected Number of Affected Persons (Affected Owners x 2.7 Members ²) |
|--|--|------------|--|
| Number Landowners | 146 | 100 | 1,234 |
| Number of Owners with Impact on Structure Only | 43 | 9 | 116 |
| Total | | | 1,350 |
| Number of Owners Compensated for the Whole Building | 7 | 2 | 19 |
| Number of Owners Compensated for Damage Due to Provision of New Residence or Business Location | 53 | 12 | 143 |

¹ 2015 average household size in Bangkok Metropolitan Region (National Statistics Office, Thailand)

Value of Losses

27. The total amount of losses is valued at 82,117.37 Million THB (Table 10). The largest portion of this amount is the value of structure comprising 74.50% of the total. The value of land lost amounts to only 25.3 percent. The smallest portion is the value of the trees. Among the

districts, the largest loss in value is in Prawet which has around 95.70% of the total value of losses or of the total amount of estimated compensation.

Table 10

Total Amount of Compensation Based on List of the Determination of Initial Prices of Immovable Property to be Expropriated and the Amount of Compensation

(This information has been removed as it falls within the exceptions to disclosure specified in para 97(v) of ADB's Public Communication Policy)

2.3 Scope of Land Acquisition and Resettlement Impacts Per Reconnaissance Result

28. The extent of land acquisition and resettlement impact by station was identified as a result of the two reconnaissance surveys. Based on their result, the construction of all the 23 stations will affect private assets. Land will be acquired for 20 stations although the need to acquire land was not established for the three stations (4, 7 and 9). But the construction of all stations entails the damage to structures.

29. Land acquisition is largest in two stations: 1 and 17. The land for the depot and Park & Ride will be in these stations. There is also substantial land acquisition in Stations 10 and 13 where an area of more than 20 meters from the road easement boundary will be acquired. The land acquisition in other stations are land within less than 20 meters from the road easement boundary. For the affected structures, whole buildings or houses will be removed in 12 stations. A market area is affected in Station 21. In other stations, only parts of the buildings will be affected.

Table 11
Identified impacts based on reconnaissance surveys in October and November 2017

| Affected private Assets | Stations | No. of stations impacted* |
|---|---|---------------------------|
| Affected land | | |
| 5-10 m. from public easement boundary | 1, 6, 10, 12, 14, 15, 16, 17,18, 20 | 9 |
| 10-15 m. from public easement boundary | 2, 3, 5, 6, 12, 15, 20, 21, 22 | 9 |
| 15-20 m. from public easement boundary | 8, 11, 16, 18, 19, 23 | 6 |
| More than 20 m. from public easement boundary | 10, 13 | 2 |
| Large land area for depot and/or park & ride | 1, 17 | 2 |
| Unknown | 4, 7, 9 | 3 |
| Total | 23 | |
| Affected structures | | |
| Awnings, carport | 14, 16 | 2 |
| Part or all of parking lot | 1, 2, 4, 6, 12, 14, 15, 16, 18 | 9 |
| Parking lot and shop | 6, 14, 15, 16 | 4 |
| Part of a structure | 2, 3, 6, 7, 8, 9, 13, 14, 15, 19, 21 | 11 |
| Whole structures | 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 | 12 |
| Market area | 21 | 1 |
| Vendors, taxi stands | 8, 11, 12, 23 | 4 |
| Garden land (public and private) | 2, 3, 8, 9, 12, 13, 15, 22 | 8 |
| Billboards (used for advertising) | 16 | 1 |
| Vacant public and/or private land | 1, 4, 6, 9, 10, 17, 20 | 7 |
| Land along a canal | 12 | 1 |
| Pedestrian crossover bridge | 11 | 1 |
| State Railway of Thailand, land and/or facilities | 11 | 1 |
| Total | 23 | |

*Note: Some stations have different impacts on opposite sides of the right-of-way.

2.4 Measures to Reduce Land Acquisition Impacts

30. The project reduced land acquisition requirement in three ways: (i) selection of train technology; (ii) selection of station location; and (iii) modification of station design. For the train technology, the need to reduce land acquisition was one of the criteria used to opt for an elevated straddle monorail.² This was also the main consideration in the decision to put the facility in the middle of the road instead of off-the-road. The manner land acquisition requirement is reduced by the train technology selected is explained below:

- **Straddle Monorail:** The straddle monorail requires only 6.7-7.3 meters ROW and minimum turning radius of 70 meters. In contrast, the heavy rail system requires 9.0 meters ROW and a minimum turning radius of 200 meters. Shorter ROW width and turning radius means smaller space ground required. The ROW space requirement of the straddle monorail at maximum width of 7.3 meters is equivalent to 25.2 hectares. The heavy rail system ROW requirement will be 31.1 hectares or 5.6 hectares more the straddle monorail.
- **Elevated Railway:** The elevated railway limits the ground space used for the foundation supporting the viaduct structure. An on-the-ground rail uses a bigger space resulting to

² The other criteria are: capacity, speed, gradient rate, turning radius rate, construction cost, system safety, noise and vibration impact and sunlight dispersal impact. Mass Rapid Transit Authority of Thailand. The MRT Yellow Brochure Line

road constriction which may necessitate land acquisition and jeopardize one of the project's objective of reducing road traffic.

- **On-the Road Location:** The 7.3 meters width and 34.5 km right of way requires 25.2 hectares of land. This area would have been acquired if the location is off-the-road. By locating the route in the middle-of-the road, land acquisition, particularly of private land, was substantially curtailed. As a result, land acquisition is only largely necessary for the stations, depot and the bends and in smaller scale.

31. The selection of train stations also considered the need to reduce acquisition of private land together with other considerations.³ For this reason, government land were preferred locations. In five stations (1,3,5,11,12 and 14), government land is used (Table 12). This preference resulted to smaller land acquisition of private land for these stations. There were also modifications in the station design made for similar purpose. The modification and adjustments are expected to be continuously done until the compensation process is complete.

Table 12
Stations Where Non-Road Government Land is Used and Government Unit Owning the Land

| Station Number | Station Name | Government Owner |
|----------------|------------------|----------------------------------|
| 1 | Ratchada | State Railway of Thailand |
| 3 | Chok Chai 4 | Ministry of Finance |
| 5 | Lat Phrao 83 | Expressway Authority of Thailand |
| 11 | Phattanakan | Expressway Authority of Thailand |
| 12 | Kalantan | State Railway of Thailand |
| 14 | Srinagarindra 38 | PTT PLC (state enterprise) |

32. These modifications and adjustment further decreased of the number of parcels to be acquired and the increase of the number of stations with no land acquisition requirement.

³ The other considerations are as follows: (i) connectivity to other planned lines, (ii) proximity to high-density business and residential areas, (iii) projected expansion of existing business and residential areas, (iv) accessibility of government offices, (v) distance between stations, (vi) aesthetics, and (vii) complementation with other planned government projects..

Chapter 3: Legal Context

33. The land acquisition process of the Yellow Line Project follows the requirements of the Government of Thailand as interpreted by MRTA in its practices. To determine the extent of the alignment of MRTA practices to ADB requirements, these are juxtaposed with those requirements and assessed.

3.1 Government of Thailand Laws and Regulations

34. The Thai laws that have most bearing on the resettlement issues in the Yellow Line Project are the 2017 Constitution, Expropriation of Immovable Property Act of B.E. 2530 (1987) and the Procurement of Immovable Property for Public Transportation Enterprises BE 2540 (1997). Section 37 of the constitution guarantees the right of a person to own and inherit properties. At the same time, it mandates the expropriation of immovable properties for public interest through a Royal Decree. It requires fairness to the affected persons.

35. The Section 41 of the 2017 Constitution upholds the person's and community's right to be informed and have access to public data or information in possession of a State agency as provided by law and present a petition to a State agency and be informed of the result of its consideration in due time. A person or a community can also take legal action against a State agency as a result of an act or omission of a government official, official or employee of the State agency. Section 34 also guarantees a person's right to express opinions.

36. These constitutional provisions are translated to specific requirements in the Expropriation of Immovable Property Act of B.E. 2530 (1987) which are largely mirrored in the Procurement of Immovable Property for Public Transportation Enterprises BE 2540 (1997). The key requirements in the Expropriation of Immovable Property Act of B.E. 2530 (1987) relevant to the construction of the Yellow Line Project are as follows:

- i. **Entitled Affected People:** The following person shall be entitled to compensation: (i) legal owners; (ii) owners of buildings or other structures on the land to be expropriated that cannot be demolished on the date the Royal Decree comes into force (i.e., legal cut-off date); (iii) buildings constructed after the cut-off date with permission of the officer; (iv) lessees of the land, buildings, or other structures on the land to be expropriated; for which the lessee has a valid contract on the date the officer takes possession of the property; (v) owners of perennial crops growing on the land; (vi) owners of buildings or other structures that can be demolished, but the affected person is not required to demolish; and (vi) any person losing a right of way or right to install water pipes, drain pipes, electricity lines, or other utilities (Immovable Property Expropriation Act 1987 Section 18).
- ii. **Land Use Restriction.** Compensation of a person who lost his right of way or right to lay down utility lines through the land to be expropriated if the affected person is paying to the landowner for such right (Immovable Property Expropriation Act 1987 Section 18).
- iii. **Unviable Remaining Affected Assets.** If a portion of a piece of land is excluded from expropriation and such portion is less than 25 square wa⁴ or any side of the remaining land is shorter than five wa and the remaining portion is not adjacent to any other plot of land owned

⁴ Wa is a subunit of *ngan*. One *rai* equals four *ngan*.

by the same owner, it can be also expropriated upon the request of the owner (Immovable Property Expropriation Act 1987 Section 20). If normal use of the property is prevented, the owner may request for its expropriation (Procurement of Immovable Property for Public Transportation Enterprises 1997. Section 28)

- iv. **Compensation Rate of Losses.** A committee will appraise the immovable property to be expropriated and estimate the amount of compensation to be paid. (Immovable Property Expropriation Act 1987 Section 9). The following shall be considered in determining the amount of compensation: (1) commercial price of immovable property on the date the Royal Decree comes into force; (2) price of Immovable property appraised for collection of local tax; (3) price of immovable property appraised for collection of tax on registration of right and juristic act; (4) conditions and location of that immovable property; (5) objectives and purposes of such expropriation in order to balance between the right of Individual and public benefit. (Immovable Property Expropriation Act 1987 Section 21). The compensation will not exceed the price appraised by the Committee under section 9 (Immovable Property Expropriation Act 1987 Section 10)
- v. **Compensation for Lost Business Income.** If the legal owner lives or runs business or legally work in the property and has to leave due to damage, compensation for such damage shall also be determined (Immovable Property Expropriation Act 1987 Paragraph 21).
- vi. **Timing of Compensation.** Payment must be made prior to the taking of possession or using of that land. (Immovable Property Expropriation Act 1987 Section 13) If the price is unable to agree upon, the officer or his entrusted person can possess or use that Immovable property after the compensation is deposited on the affected person's account (Immovable Property Expropriation Act 1987 Section 13)
- vii. **Cut-off Date.** The commercial price of immovable property to be expropriated will be determined on the date the Royal Decree comes into force; (Immovable Property Expropriation Act 1987 Section 21).
- viii. **Information Disclosure and Consultation.** When the Royal Decree comes into force, a copy shall be posted together with its annexed map or plan to be seen by the public at the following places: (1) Office of the Officer which in this case is the MOT Minister; (2) Bangkok Metropolitan Administration, Khet Office, Khwaeng Office, Changwat Office, Amphoe or King--Amphoe Office, Tambol Office, Village Master Office, as the case may be, where the immovable property to be expropriated is located; (3) Changwat Land Office and Amphoe Land Office where the immovable property to be expropriated is located. (Immovable Property Expropriation Act 1987 Section 7). The appraised price and compensation shall be completed and published at the place under Section 7 within 180 days from the date the Committee has been appointed (Immovable Property Expropriation Act 1987 Section 9) While the Royal Decree is being enforced, the officer or his entrusted person shall deal with the legal owner of the immovable property with a view to buy it, to negotiate the price of, or compensation to be paid (Immovable Property Expropriation Act 1987 Immovable Property Expropriation Act 1987 Section 10).
- ix. **Grievance Redress Mechanism.** The entitled person who is not satisfied with the price of immovable property or amount of compensation set by the Committee may appeal to the Minister executing the Royal Decree within 60 days from the date of receipt of written notice to collect that compensation. The Minister shall appoint a Committee to advise him composed of not less than five qualified members in field of law and immovable property appraisal. The

Minister shall deliver his decision on such appeal within 60 days after receiving the appeal (Immovable Property Expropriation Act 1987 Section 25). If the entitled person is not satisfied with the decision of the Minister or if the Minister fails to deliver his decision within 60 days, he has the right to bring the case to Court within one year from the receipt of the minister's decision or at the expiration of the prescribed period. This grievance redress process will not prevent expropriation from taking place. (Immovable Property Expropriation Act 1987 Section 26).

37. The land acquisition process based on the 1987 Land Expropriation Act and as implemented by MRTA begins as one track. This track starts with the enactment of the expropriation decree and ends with the government agency offering the property owner the compensation contract. The track diverges into two tracts from thereon.

38. Track 1 is followed when the property owner accepts the compensation offer. In this track, the owner signs the compensation agreement, receives the compensation, clears and vacates his property and hands it over to MRTA (Table 6). Track 2 is followed when the property owner refuses the expropriation or the compensation offer (Table 7). The track begins with the MRTA depositing the compensation amount in the name of the person entitled to compensation. The 1997 Procurement of Immovable Property for Public Transportation Enterprises Act requires that the depository will be any of the three government arms: (i) court of law, (ii) Office of Deposit of Property; and (iii) state bank (Section 24). An account will be created for the entitled person. The property owner can appeal to the minister of the responsible agency and if unsatisfied with the judgement of the minister, he can elevate it to the judicial process.

39. The appeal of the property owner and the subsequent court litigation will not hinder the expropriation process. If the expropriation process is deemed delayed, the cabinet can declare the project as urgent and property owners will be compelled to vacate their property. When the situation calls for it, the force of the state through the police and the local authorities can be employed if the property owner is adamant in his refusal to give up his property. Such cabinet declaration was requested for the Yellow Line Project.

40. The MRTA expropriation process is closely hewed to the process prescribed in the 1987 Land Expropriation Act and 1997 Procurement of Immovable Property for Public Transportation Enterprises. There are slight differences in the execution details such as in the number of compensation committees formed and the collection of information on the owner and the property. But these details are adjustment to the scale of the project and the availability of better recording technology.

41. For the Yellow Line Project, the committee appointed by the MOT is composed of the representatives of the following: (i) MRTA (Chair), Bangkok City Council, District Council, Land Department; and Community. In Samut Prakarn Province which is covered by the Yellow Line, each district has a committee with representatives from the Department of Local Administration. The MRTA will be the secretary of the committee. Minutes of meetings of the committee are documented and compiled by the MRTA and shared with the public. The committee receives all the data from the survey of affected properties from MRTA and use these to determine the compensation for each affected household.

42. The MRTA pays the property owner. One check is issued to the name of the property owner. The property owner may issue a special power of attorney to designate another person to receive the compensation. The burden of proving property ownership is with the owner. A standing asset is only paid if the owner of the land allowed its construction and acknowledged

such asset. If a standing asset is a house, its residents get disturbance allowance (30,000-100,000 THB) depending on its appraised value. MRTA will pay the cost of transferring the ownership of the land from the owner to MRTA Land Department.

Table 13
Steps Prescribed by 1987 Land Expropriation Act and MRTA Acquisition Process for Privately Owned Land for Acceptable Compensation

| No | General | MRTA |
|---|--|---|
| 1 | Enact Decree on proposed expropriated land and issue urgent notification | Announce the Royal Decree |
| 2 | Post copy of the decree at the site | Post copy of the decree at the site |
| 3 | Issue letter informing the owner of site inspection | Inform the owner of site inspection 15 days in advance |
| 4 | Conduct site inspection | Conduct site inspection and identify ownership |
| 5 | Set-up committee for preliminary land price estimation | Set-Up the committee per district within 30 days from the enforcement of the decree |
| 6 | Set compensation price | MRTA legal officers and contractors collect information from tenant and landowner with handwritten record of the meeting signed by the MRTA officer and the landowner |
| 7 | Post compensation price | Consultants collect the data (with photos, maps and diagrams) for land and structure and submits these to MRTA legal division. Separately compile the detailed data |
| 8 | Inform beneficiary to settle all issues on property for expropriation | MRTA submit the records and data to the Committee for price appraisal. |
| 9 | Offer and sign a compensation agreement with the owner with or without the right to appeal | Committee set the prices and announces these in public places |
| 10 | Give the owner written notice to receive the compensation | Property owner is invited in writing to sign a compensation contract within 60 days after receipt of invitation and informing them of the appeal process |
| 11 | Upon receipt of compensation, the owner will request for cadastral survey if the property is partially expropriated and registration if the whole property is expropriated | Property owner and the MRTA Governor sign the contract |
| 12 | Advise the owner to move out on a specified time (within 60 days) and the date to take over the land | After the contract signing, the owner is invited in writing to receive the compensation. A second letter is sent advise the owner to vacate the property. |
| 13 | After the owner clears his property, it will be turned over to the responsible agency with the transfer of ownership | MRTA will pay the owner within 120 days and the interest for any delay in payment |
| 14 | | MRTA will transfer the land to the Developer (BTS/BSR). |
| Source: Immovable Property Expropriation Act 1987, MRTA. Chart of for Land Expropriation Referring to Land Expropriation Act 1987 | | |

43. The 1989 Regulation of the Office of the Prime Minister on Roles and Method in Making a Deposit at the Court or Deposit Office or Savings Bank specifies the steps to make the deposit. The entitled person is notified within 120 days from the date the committee has determined the compensation. If the entitled person refuses to receive the compensation, the responsible official will deposit the compensation at the Government Savings Bank within the area where the expropriated property is located. The depository may be the court or deposit office if the responsible official deems that this is more beneficial to the expropriation process or the person has specified in writing his preference for any of these two depositories.

44. In the Government Savings Bank, the following steps are followed to deposit and withdraw the compensation: (i) the responsible official deposits the compensation in a current account in

the name of the entitled person indicating the exact amount of compensation; (ii) to get the compensation, the entitled person will notify the responsible official 60 days in advance; (iii) the entitled person provides a proof of his identity to the responsible official; (iv) the responsible official will confirm the identity of the entitled person; and (v) the responsible official will disburse the compensation to the entitled person.

45. If the compensation is deposited in the court or deposit office, the steps to deposit and withdraw the compensation are as follows: (i) the responsible official will deposit the exact amount of compensation in the name of the entitled person with the detailed description of the expropriated property and other compensated assets and damages. (ii) the responsible official will notify the entitled person of the deposit and the method of getting such compensation; (iii) the entitled person will submit a motion to the court or deposit office in accordance with the Regulations on Security Deposit of the Ministry of Justice to get the compensation.

46. After compensation is paid or deposited to the account of the affected person, he will be notified that his property will be possessed or demolished within 60 days from receipt of the notification (Section 30 1987 Immovable Property Expropriation Act). In case the Cabinet declares expropriation urgent and necessary, the affected person must be notified at least 60 days before his property is possessed and only after compensation is paid or deposited to his account (section 13 1987 Immovable Property Expropriation Act. The MRTA observes at least 60 days notification to the affected person before taking over the property.

Table 14
Steps Prescribed by 1987 Land Expropriation Act and MRTA Acquisition Process for Privately Owned Land in Case of Refusal of Compensation

| No | General | MRTA |
|----|---|---|
| 1 | Deposit the compensation in Government Savings Bank | If the property owner does not agree with the compensation amount, it is deposited in an escrow account within 1-2 days after the 60 day-period after the invitation letter was sent lapses. The account is opened in the name of the owner listed in property certificate. |
| 2 | Inform in writing the property owner to receive the compensation | The property owner can appeal in writing within 60 days to the Minister of Transport (MOT). There is no specific form for an appeal. |
| 3 | Propose the application of Expropriation Act if the owner refuse to sell the property | The MOT Appeal Committee must respond to the appeal within 60 days. |
| 4 | Inform the property owner of specified date to use or occupy the property and demolish it | If the property owner is not satisfied with the decision of the Minister through the Appeal Committee, he can bring the case to the judicial process within one year. |
| 3 | Owner may appeal to the minister within 60 days after receipt of written notice | If the expropriation process delays the construction, the Cabinet can declare the project urgent authorizing MRTA to expropriate the needed properties while compensation is being negotiated or litigated. |
| 4 | If the decision of the minister is not acceptable or if there is decision within 60 days the owner can bring it to the judicial process within a year | After declaration of urgency, the owner is informed that the compensation amount is deposited in escrow. All property owners are informed in writing that the MRT will take over their properties. |
| 5 | | MRTA Land Acquisition Department goes to the property owners to negotiate one by one on the date they can vacate the property. |
| 6 | | If the property owner refuses to vacate his property, he will be requested in writing to do so. |

| No | General | MRTA |
|---|---------|---|
| | | If the property owner will not voluntarily vacate his property, police and local administration office will help MRTA to take the movable assets to a place he indicates or put these in a warehouse. |
| 7 | | If there are still property owners who refuse to move, the Parliament can issue a second expropriation decree. |
| 8 | | MRTA will take over the property and transfer it to the developer (BTS/BSR). |
| Source: Immovable Property Expropriation Act 1987, MRTA. Chart of for Land Expropriation Referring to Land Expropriation Act 1987 | | |

47. To obtain compensation for lost income due to disruption of business from commercial assets, the owner must show tax receipt for the business enterprise. If no tax receipt is shown, the owner will get the minimum compensation based on lowest income tax bracket of 15,000 THB per year. The compensation is 7500 THB. The compensation for the commercial property is reckoned separately from the compensation of lost business income and its compensation is computed as a physical asset.

48. For encroachers on government land, the MRTA first establishes the controlling agency of the land. The controlling agency is requested to compensate the assets of the encroachers of the land. The coming into force of the Royal Decree serves as the cut-off to encroachers. Construction is no longer allowed in the encroached government land afterward although business activities may continue. But the Yellow Line has no case of encroachment.

3.2 ADB 2009 Social Safeguards Policy Statement

49. While land acquisition is being undertaken not in anticipation of ADB financing, the audit considered the extent to which MRTA practices are in line with ADB’s SR2 requirements. ADB’s SR2 Involuntary resettlement safeguards covers physical displacement (relocation, loss of residential land, or loss of shelter) and economic displacement (loss of land, assets, access to assets, income sources, or means of livelihoods) as a result of (i) involuntary acquisition of land, or (ii) involuntary restrictions on land use. It covers full and partial as well as permanent and temporary losses and involuntary restrictions. The objectives of involuntary resettlement safeguards are the following: (i) avoid involuntary resettlement wherever possible; (ii) minimize involuntary resettlement by exploring project and design alternatives; (iii) enhance, or at least restore, the livelihoods of all displaced persons in real terms relative to pre-project levels; and (iii) to improve the standards of living of the displaced poor and other vulnerable groups. To achieve these objectives, the SPS requires that project activities must adhere to the following principles:

- i. Determine the scope of resettlement planning through a survey and/or census of displaced persons, including a gender analysis, specifically related to resettlement impacts and risks;
- ii. Carry out meaningful consultations with affected persons, host communities, and concerned NGO;
- iii. Inform all displaced persons of their entitlements and resettlement options;
- iv. Pay particular attention to the needs of vulnerable groups, especially those below the poverty line, the landless, the elderly, women and children, and those without legal title to land, and ensure their participation in consultations;
- v. Establish a grievance redress mechanism to receive and facilitate resolution of the affected persons’ concerns;

- vi. Improve, or at least restore, the livelihoods of all displaced persons through (i) land-based resettlement strategies when affected livelihoods are land based where possible or cash compensation at replacement value for land when the loss of land does not undermine livelihoods, (ii) prompt replacement with access to assets of equal or higher value, (iii) prompt compensation at full replacement cost for assets that cannot be restored;
- vii. Provide physically and economically displaced persons with needed assistance;
- viii. Improve the standards of living of the displaced poor and other vulnerable groups, including women, to at least national minimum standards;
- ix. Develop procedures... if land acquisition is through negotiated settlement to ensure that those who enter into negotiated settlements will maintain the same or better income and livelihood status;
- x. Ensure that displaced persons without titles to land or any recognizable legal rights to land are eligible for resettlement assistance and compensation for loss of nonland assets;
- xi. Pay compensation and provide other resettlement entitlements before physical or economic displacement;
- xii. Implement the resettlement plan under close supervision throughout project implementation;
- xiii. Monitor and assess resettlement outcomes, their impacts on standard of living of displaced persons, and whether the objectives of the resettlement plan have been achieved by taking into account the baseline conditions and the results of resettlement monitoring. Disclose monitoring reports.

3.3 Gap Analysis

50. The land acquisition for the Yellow Line Project was carried out within the context of the Thai legal framework. The main law defining this framework is the 1987 Land Expropriation Act. This law was interpreted for more specific application to public transportation system in the 1997 Procurement of Immovable Property for Public Transportation Enterprise. Based on these two laws, the MOT produced the Determination of Compensation Manual (2013) which specifies the steps in setting the compensation rate for affected properties and income. In its preface, it is stated that the manual is to raise the awareness of the affected people on their legal rights, assist the expropriating agency in delivering prompt and fair performance and reduce the chance of disputes.

51. The relevant provisions of these laws and manual as well as the written and unwritten practices of MRTA and its concessionaire are compared with the ADB requirements (Table 15). These requirements are on the following: (i) survey or census of displaced persons specifically related to resettlement impacts; (ii) conduct of meaningful consultation; (iii) disclosure of information to displaced persons on their entitlement and options; (iv) attention to the needs of vulnerable groups; (v) grievance redress mechanism; (vi) livelihood restoration through compensation at full replacement cost; (vii) assistance provision of displaced persons; (viii) improvement of living standards of vulnerable groups; (ix) negotiated settlement procedures; (x) non-land compensation and assistance to those without land titles; (xi) compensation payment before displacement; and (xii) monitoring of resettlement outcomes.

52. The comparison below will determine if the provisions of the Thai laws and the MOT manual as well as the practices of the MRTA for the Project are consistent with ADB's SPS SR2 requirements.

Table 15
Thai Law Requirements, MRTA Practices Alignment with ADB Involuntary Safeguards Principles

| ADB Involuntary Resettlement Safeguards Principles | 1987 Land Expropriation Act (LEA) and 1997 Procurement of Immovable Property for Public Transportation Enterprise (PIPPTE) | MOT Manual of Compensation | MRTA Practices | Remarks |
|---|--|---|---|--|
| <p>1 Screen the project early on to identify past, present, and future involuntary resettlement impacts and risks. Determine the scope of resettlement planning through a survey and/or census of displaced persons, including a gender analysis, specifically related to resettlement impacts and risks.</p> | <p>The map or plan that demarcate the area to be expropriated and all land plots within the demarcated area shall be made and annexed with the Royal Decree and shall be deemed as an integral part of the Royal Decree. (Section 6: LEA):</p> <p>When the Royal Decree comes into force, the officer or his entrusted person shall complete the survey...to obtain.. information relating to immovable property to be expropriated within 180 days. (Section 8 and 9: LEA)</p> <p>The appraised price and compensation shall be completed and published ... within 180 days from the date the Committee has been appointed Section 7 LEA).</p> <p>Once the Royal Decree ... comes into effect, a competent official shall display copies of the Royal Decree along with the map or lay-out that is an appendix...in the following places (Section 9: PIPTE)</p> <p>Within the time period in which a Royal Decree remains in effect, competent officials shall have to power to conduct surveys ... to ascertain facts concerning the immovable property that needs to be expropriated (Section 10, PIPTE).</p> | <p>Surveyed market price will refer to the characteristics of the land and structure (Additional Note page 13); The survey and price estimation based on the characteristics of the structure will determine the compensation (Section 3.2.1)</p> | <p>(i) Inspect site and identify ownership (ii) MRTA legal officers and contractors collect information from owner and renter handwritten record of the meeting signed by the MRTA officer and the landowner; (iii) consultants collect the data using camera, maps and diagrams for land and structures; (iv) validation of land acquisition data through monthly meetings of MRTA, Consultants and EBM; and (v) resurvey in case of the data of MRTA and its consultants are inconsistent;</p> | <p>Gender analysis not required under Thai laws.</p> |

| ADB Involuntary Resettlement Safeguards Principles | 1987 Land Expropriation Act (LEA) and 1997 Procurement of Immovable Property for Public Transportation Enterprise (PIPPTE) | MOT Manual of Compensation | MRTA Practices | Remarks |
|--|---|--|--|----------------|
| <p>2 Carry out meaningful consultations with affected persons, host communities, and concerned nongovernment organizations..</p> | <p>When the Royal Decree comes into force, the officer or his entrusted person shall post the copy of Royal Decree together with its Annexed map or plan to be seen by the public at the following places.. (Section 7: LEA)</p> <p>When the Act on Immovable property expropriation ...comes into force, the officer or his entrusted person shall post the copy of that Act together with its annexed map or plan and list of the owner ... to be seen by the public.. (Section 28: LEA)</p> <p>The appraised price and compensation shall be completed and published ... within 180 days from the date the Committee has been appointed Section 7 LEA).</p> <p>While the Royal Decree ... being in force, the officer or his entrusted person shall have the power to deal with the owner of ...immovable property to be expropriated with a view to buy,. negotiate the price..or compensation.(Section 10: LEA).</p> <p>For taking action under (inspect, utilize, and temporary occupy the property) and (..remove obstacles or move objects...and to collect other objects for surveying), the competent official shall notify the owner or legal occupant .. in writing of intended actions and the unavoidable necessity no less than</p> | <p>The MOT Compensation Manual provides guidance on how to calculate compensation. It is meant to supplement the law. All requirements for notifications of affected people are in accordance with law. However, the Compensation Manual provides guidance on three circumstances where the affected person can participate in making decision in handling of expropriation and corresponding adjustment in compensation: (i) the affected building owner can express intention to move out from the building or move the whole building to another location and the compensation agreement will be made case-to-case (Section 3.2.2 Note); (ii) the affected building owner can request for the expropriation of a remaining part of the building which is rendered unusable (Section 3.2.3) ; and (iii) for rented property, the officer will explain the entitled person based on the rental agreement the compensation and compensated items and will ask the landlord and the tenant to agree on the items in order to share the compensation (Section 3.5.1 Note).</p> | <p>1 Consultations and focused group discussions were made as part of EIA preparation.</p> <p>2 Consultation with the owners is done in the meeting to collect data the property and owners and negotiation to vacate the property when the cabinet declared the project as urgent;</p> <p>3 Several individual and group consultation meetings were done with affected people;</p> <p>4. Information sharing and engagement with communities during construction phase</p> <p>5 Notification to affected people 15 days before the asset survey</p> <p>6 Issuance of Compensation Committee's announcement of appraised prices more than 10 , times in public places</p> <p>7. Information on appeal procedure in a letter of invitation to meet with MRTA after announcement of appraised prices. MRTA Land Acquisition</p> <p>8. Continuous consultation and exchange of information.</p> | <p>Aligned</p> |

| ADB Involuntary Resettlement Safeguards Principles | 1987 Land Expropriation Act (LEA) and 1997 Procurement of Immovable Property for Public Transportation Enterprise (PIPTE) | MOT Manual of Compensation | MRTA Practices | Remarks |
|---|---|--|---|----------------|
| | <p>15 days prior... (Section 10 PIPTE)</p> <p>Once the announcement (of urgency and necessity of expropriation) is made, the authorized competent official has the power to enter the property but must notify the owner or lawful occupant in writing in no less than 60 days prior the entry... (Section 19: PIPTE)</p> | <p>[Example of Specific provisions in the Compensation Manual page 32 Section 3.2.2 and 3.2.3 where property owner can make a request on moving the affected house or a request to purchase the remaining unaffected structure and then a discussion and negotiation follows ---]</p> | | |
| <p>3 Inform all displaced persons of their entitlements and resettlement options.</p> | <p>Once the Royal Decree ... comes into effect, a competent official shall display copies of the Royal Decree along with the map or lay-out that is an appendix...in the following places (Section 9: PIPTE)</p> | <p>See previous comment. The Compensation Manual provides guidance in disclosing information in the following circumstances: (i) for mortgage property, the responsible officer will notify the mortgagee to receive the compensation (Part 2, Note); (ii) for rented property, the officer will explain the entitled person based on the rental agreement the compensation and compensated items and will ask the landlord and the tenant to agree on the items in order to share the compensation (Section 3.5.1 Note); and (iii) for deposit of compensation, the responsible officer will notify the entitled person of the deposit and method of getting getting it (Appendix 5.2.3: 1989 Regulation of the Office of the Prime Minister on Roles and Method in</p> | <p>Posting of royal decree and property price appraisal results in public places: Written notice to owners and renters on site inspection, compensation contract, availability and deposit of compensation, appeal process, requirement to vacate the property and appeal decision in case of complaint. Public disclosure of the minutes of the meeting of Compensation Committee. Continuous consultation and exchange of information Dedicated web site: http://www.mrta.co</p> | <p>Aligned</p> |

| ADB Involuntary Resettlement Safeguards Principles | 1987 Land Expropriation Act (LEA) and 1997 Procurement of Immovable Property for Public Transportation Enterprise (PIPPTE) | MOT Manual of Compensation | MRTA Practices | Remarks |
|---|--|---|----------------|---|
| | | Making a Deposit at the Court or Deposit Office or Savings Bank; Article 8) . | | |
| <p>4 Pay particular attention to the needs of vulnerable groups, especially those below the poverty line, the landless, the elderly, women and children, and Indigenous Peoples, and those without legal title to land, and ensure their participation in consultations..</p> | <p>The following person shall be entitled to compensation: ... owner of tenement or other constructions which are unable to demolish and existed on the land to be expropriated on the date the Royal Decree enacted...or constructed later by permission of the officer (Section 18: LEA);</p> <p>If the owner .. of immovable property to be expropriated, lives or runs business or other legally works on the ..property.. and such person may be susceptible to damage...that he has to leave that property, compensation for such damage shall also be determined. (Section 21: LEA)</p> <p>In case where there is no need to expropriate the immovable property, the competent official is authorized to make an agreement with the owner.. to specify the burden on the property as required to carry out the enterprise and determine the compensation (Section 13: PIPPTE)</p> <p>Compensation shall be paid to owners of houses or other structures which exists on the land the day on which the Royal Decree ... comes into effect or are constructed afterwards with permission of the responsible agency (Section 26; PIPPTE)</p> | <p>No provision to identify the needs of vulnerable groups, especially those below the poverty line, the landless, the elderly, women and children, and Indigenous Peoples, and those without legal title to land but structures will be compensated regardless of the tenure of land where it is standing...</p> | <p>None</p> | <p>Based on the October-December 2017 survey of 29 households with affected properties and 500 households with unaffected properties along the route, none lives below the national poverty line who can be considered vulnerable</p> |

| ADB Involuntary Resettlement Safeguards Principles | 1987 Land Expropriation Act (LEA) and 1997 Procurement of Immovable Property for Public Transportation Enterprise (PIPPTE) | MOT Manual of Compensation | MRTA Practices | Remarks |
|--|--|--|---|--|
| | <p>In case where access to utilize the immovable property will prevent the owner or legal occupant with no land title .. (he) may request that the agency purchase or expropriate the property (Section 28: PIPTE)</p> | | | |
| <p>5 Establish a grievance redress mechanism to receive and facilitate resolution of the affected persons' concerns.</p> | <p>In considering an appeal, the minister shall appoint a committee to give him an advice. Such committee shall be composed of not less than five qualified members in the field of law and immovable property appraisal (Section 25: Lea)</p> <p>In case where the person entitled to compensation who does not satisfy with the decision of the Minister...or where the Minister fails to deliver his decision within the period prescribed ...that person shall have the right to file the case to the Court within one year as from the date he receives the decision of the Minister or at the expiration of the aforesaid period.. (Section 26: LEA).</p> <p>In considering the appeal.. the minister shall appoint a committee to provide its recommendation... The committee shall consists of a chairperson, one legal expert, one engineering expert and 3 persons having expertise in assessing properties (Section 36: PIPTE)</p> <p>If a person... is not satisfied with the ruling of the minister ..or if the minister did not rule on the appeal</p> | <p>The Compensation Manual follows the appeals processes as provided by law. The Compensation Manual gives specific guidance in three cases: (i) for the purchase of the remaining part of the parcel, the landowner has the right to appeal on the price (Section 3.1.3 Note) (ii) for expropriation of remaining part of the structure, the owner has the right to appeal for additional compensation apart from the original compensation (Section 3.2.3) ; and (iii) for dispute between landlord and tenant, the responsible official will explain the amount of compensation and details of compensation items and ask them to agree on the items in order to share the compensation.</p> <p>[Example: Note in Section 3.5.1 of the Compensation Manual says official shall tell tenant about the compensation to be received,</p> | <p>The complainant can appeal in writing to the MOT minister. The Appeals Committee advises the minister on the decision of the complainant. If the decision is unacceptable, the complainant can bring the case to court within one year</p> | <p>Aligned with SR2 requirement to have a grievance mechanism.</p> |

| ADB Involuntary Resettlement Safeguards Principles | 1987 Land Expropriation Act (LEA) and 1997 Procurement of Immovable Property for Public Transportation Enterprise (PIPPTE) | MOT Manual of Compensation | MRTA Practices | Remarks |
|--|--|--|--|---|
| | within specified period, such person has the right to file a case in court within two years from the date of notification of minister's ruling (Section 37 PIPPTE). | details of each compensation item in order to reach an agreement to resolve dispute between landlord and tenant.] | | |
| <p>6 Improve, or at least restore, the livelihoods of all displaced persons through (i) land-based resettlement strategies when affected livelihoods are land based where possible or cash compensation at replacement value for land when the loss of land does not undermine livelihoods, (ii) prompt replacement of assets with access to assets of equal or higher value, (iii) prompt compensation at full replacement cost for assets that cannot be restored, and (iv) additional revenues and services through benefit sharing schemes where possible.</p> | <p>The following shall be taken into consideration in determining the amount of compensation to be paid to the entitled person under section 18: (1) commercial price of immovable property ..on the date the Royal Decree enacted; (2) price of immovable property appraised for collection of local tax; (3) price of immovable property appraised for collection of tax on registration of right and juristic act; (4) conditions and location of that immovable property; (5) objectives and purposes of expropriation... for balancing.. between the right of individual who has been expropriated and public benefit. (Section 21: LEA)</p> <p>If it appears to the Minister... that the land price goes up high after the appraised price of the land... wholly or partly, has been notified and the price of ... property paid by the officer... or the price of immovable property appraised and notified by the Committee ...becomes unfair to the person.. the Minister shall, with approval of the Council of Ministers, order the Committee ... or the Committee which has been newly appointed in accordance with the rule under section 9 to justify the price of,,, property or the appraised price in accordance with the rules</p> | <p>Provision of compensation and methods for setting the amount for land (Section 3.1), structures (3.2), land with structure (Section 3.3), perennials (Section 3.4) and damages from vacating the property (Section 3.5).</p> <p>Compensation for loss of income from business and occupation (Section 3.5.3 (2) 3; Section3.5.4)</p> <p>Compensation for tenants exiting from property before end of rental agreement (Section 3.5.1)</p> | <p>The Committee receives all property records and data from MRTA, appraise the properties and set the compensation.</p> <p>Compensation of lost business and occupational income based of tax receipt within past 3 years or other evidence of income</p> | <p>Compensation principles are aligned.</p> |

| ADB Involuntary Resettlement Safeguards Principles | 1987 Land Expropriation Act (LEA) and 1997 Procurement of Immovable Property for Public Transportation Enterprise (PIPPTE) | MOT Manual of Compensation | MRTA Practices | Remarks |
|--|---|----------------------------|----------------|---------|
| | <p>and conditions approved by the Council of Ministers. The justified price of ... property shall be deemed the sale price as agreed upon and the justified price shall be deemed the price appraised by the Committee... Section 10: LEA)</p> <p>Compensation means monetary compensation for the burden of immovable property and shall include other kinds of compensation (Section 3: PIPPTE)</p> <p>The Committee shall take into account the following factors in determining the compensation amount: (i) price of the property on the day which the committee determines the compensation; Size, location, conditions and nature of utilization of the property; (3) use of the land in surrounding areas; (4) condition and nature of the burden on the property caused on its access and utilization; (5) benefits or damage to the owner receives due to accessing and utilization of the property (Section 30: PIPPTE)</p> <p>In cases where the minister... determine the burden on the ... property... holds that the compensation determined or paid in full or in part, is not fair to the persons for reason that the facts used in determining the compensation are inaccurate, the minister, with the Council of Minister's approval has power to instruct the committee... or newly</p> | | | |

| ADB Involuntary Resettlement Safeguards Principles | 1987 Land Expropriation Act (LEA) and 1997 Procurement of Immovable Property for Public Transportation Enterprise (PIPPTE) | MOT Manual of Compensation | MRTA Practices | Remarks |
|---|--|---|--|--|
| | appointed committee to rectify the amount of compensation. This shall follow the rules and conditions approved by the Council of Ministers (Section 32: PIPTE) | | | |
| 7 Provide physically and economically displaced persons with needed assistance, including the following:..., (ii) transitional support and development assistance, such as land development, credit facilities, training, or employment opportunities; . | No provision for assistance for displaced person | Compensation for cost of removal, relocation and reconstruction (Part 2, Chart; Compensation for transfer cost for leasers (Section 3.5.2; 3.5.3 and 3.5.4 Compensation for cost of interacting with expropriating agency (Section 5.5.5) | Disturbance allowance between 30,000-100,00 THB for house owners Compensation for the cost of removal, relocation and reconstruction | Aligned with requirements for resettlement assistance. |
| 8 Improve the standards of living of the displaced poor and other vulnerable groups, including women, to at least national minimum standards.... in urban areas provide them with appropriate income sources and legal and affordable access to adequate housing. | Apart from paying just compensation for affected properties owned, no specific requirements on implementing programs to improve standards of living of poor and vulnerable people to national minimum standards, While LEA Section 10 and PIPTE Section 32 provides that the Minister can rectify the compensation amount if it is deemed unfair, there is no provision for losses and allowances assistance to help transition which applies to all affected people regardless of socio-economic condition. | No provision | The concessionaire through its contractors are required to participate in community activities such as scholarship granting (Section 9, Attachment 1, MRTA Requirements, Part 1 Civil Works, Appendix 5, Environmental Protection Requirements The BSR Consortium Companies provides the following as part of its Corporate Social Responsibility Program which can be directed to vulnerable affected households: health care and medical services (BTS); scholarships (STECON); and health and skills training for the elderly in Nonhaburi (RATCH) (BTS Group Holding PCL. Annual Report 2016/17; Sino-Thai Engineering and Construction PCL. Annual Report 2016; and Ratchaburi Electricity | Aligned. |

| ADB Involuntary Resettlement Safeguards Principles | 1987 Land Expropriation Act (LEA) and 1997 Procurement of Immovable Property for Public Transportation Enterprise (PIPPTE) | MOT Manual of Compensation | MRTA Practices | Remarks |
|--|---|---|--|---|
| | | | Generating Holding PCL. Annual Report 2016) | |
| 9 Develop procedures in a transparent, consistent, and equitable manner if land acquisition is through negotiated settlement to ensure that those people who enter into negotiated settlements will maintain the same or better income and livelihood status.. | <p>In case where it is necessary for the State to acquire any immovable property for the provision of any necessary public utility or for other public purposes, if the transfer of ownership of such .. property is not agreed upon.. the expropriation under this Act shall apply. (Section 5: LEA)</p> <p>In case where an agency has the need to use an immovable property without the necessity of ownership, unless both parties agree, otherwise the agency shall follow the provisions of this act (Section 6: PIPPTE)</p> | No provision for negotiated settlement | Negotiated settlement is conducted in straightforward buyer and seller transaction | Not applicable. Land is being expropriated. |
| 10 Ensure that displaced persons without titles to land or any recognizable legal rights to land are eligible for resettlement assistance and compensation for loss of nonland assets.. | <p>The following person shall be entitled to compensation: ... owner of tenement or other constructions which are unable to demolish and existed on the land to be expropriated on the date the Royal Decree enacted...or constructed later by permission of the officer (Section 18: LEA);</p> <p>If the owner .. of immovable property to be expropriated, lives or runs business or other legally works on the ..property.. and such person may be susceptible to damage...that he has to leave that property, compensation for such damage shall also be determined. (Section 21: LEA)</p> <p>In case where there is no need to expropriate the immovable property,</p> | Persons with rights to compensation include owners of structures and perennials, tenants of structures and users of right of way and utilities lost in expropriation (Part 2) | All owners and renters are compensated | Aligned. |

| ADB Involuntary Resettlement Safeguards Principles | 1987 Land Expropriation Act (LEA) and 1997 Procurement of Immovable Property for Public Transportation Enterprise (PIPPTE) | MOT Manual of Compensation | MRTA Practices | Remarks |
|--|---|----------------------------|--|-----------------|
| | <p>the competent official is authorized to make an agreement with the owner.. to specify the burden on the property as required to carry out the enterprise and determine the compensation (Section 13: PIPPTE)</p> <p>Compensation shall be paid to owners of houses or other structures which exists on the land the day on which the Royal Decree ... comes into effect or are constructed afterwards with permission of the responsible agency (Section 26; PIPPTE)</p> <p>In case where access to utilize the immovable property will prevent the owner or legal occupant with no land title .. (he) may request that the agency purchase or expropriate the property (Section 28: PIPPTE)</p> | | | |
| <p>11. Pay compensation and provide other resettlement entitlements before physical or economic displacement. Implement the resettlement plan under close supervision throughout project implementation.</p> | <p>In case of land expropriation, such payment shall be made prior to the taking of possession or using of that land...If it is necessary to demolish any construction, to displace of property or to do any act relating to such ... property, the officer or his entrusted person shall, upon payment or deposit of compensation...have written notice to the owner of, or the person who legally takes possession of, that immovable property to conduct such demolition... within the period specified therein, but not less than 60 days as from the date the notification has been sent. (Section 13; LEA)</p> | <p>No provision</p> | <p>Compensation is paid before the notice of eviction is issued and land is turned over to BTS/BSR</p> | <p>Aligned.</p> |

| ADB Involuntary Resettlement Safeguards Principles | 1987 Land Expropriation Act (LEA) and 1997 Procurement of Immovable Property for Public Transportation Enterprise (PIPPTE) | MOT Manual of Compensation | MRTA Practices | Remarks |
|---|---|------------------------------------|---|---|
| | <p>...the officer shall have the right to take possession of or use that immovable property only upon payment or deposition of compensation as prescribed by this Act. (Section 15; LEA): The competent officer shall also arrange for the specified compensation to be paid or deposited prior to entry to the immovable property (Section 19: PIPPTE)</p> | | | |
| <p>12 Monitor and assess resettlement outcomes, their impacts on the standards of living of displaced persons, and whether the objectives of the resettlement plan have been achieved by taking into account the baseline conditions and the results of resettlement monitoring. Disclose monitoring reports.</p> | <p>No provision for monitoring</p> | <p>No provision for monitoring</p> | <p>MRTA LAD has dedicated Pink and Yellow Line teams to implement, monitor progress and report land acquisition, resettlement and compensation progress. For the Yellow Line Environmental auditor to conduct one-time pre-construction sample survey among directly affected people and residents within 500 meters from the ROW, Depot and Park&Ride. The MRTA will do the same survey among residents within 500 meters from the ROW, Depot and Park&Ride in construction phase (2X per year) and operation phase (1 X per year) .</p> | <p>Report for government use only. No report will be generated by MRTA for ADB since MRTA is not ADB's Borrower/Client.</p> |

53. The assessment of the MRTA land acquisition process for the Yellow Line against 12 applicable ADB principles showed alignment in nine requirements (Table 15). These requirements are on the following: (i) survey or census of displaced persons specifically related to resettlement impacts; (ii) conduct of meaningful consultation; (iii) disclosure of information to displaced persons on their entitlement and options; (iv) grievance redress mechanism; (v) assistance provision of displaced persons; (vi) improvement of living standards of vulnerable groups; (vii) non-land compensation and assistance to those without land titles; (viii) compensation payment before displacement; and (ix) monitoring of resettlement outcomes.

54. The requirement on negotiated settlement procedures is not applicable because the land requirement of the Yellow Line Project is all under expropriation. On the requirement on attention to the needs of vulnerable groups in consultation, the result of pre-construction survey identified no household living below the country's poverty line who can be considered vulnerable.

55. On the requirement of livelihood restoration, it is necessary if Project is (i) affecting the place of business and (i) if people require to move and need a place to live which subsequently may affect their job security. In both circumstances, livelihood can be restored if the affected people are compensated for their lost land, structure and income at replacement cost and provided with assistance to reestablish their place their residence and livelihood. The compensation at replacement cost will enable them to buy assets of similar characteristics and location as the lost ones and will serve as their platform to restore livelihood.

56. The MOT Manual provides compensation for lost land at market rates. The step by step process to calculate market rates for land is explained by MRTA as follows:

Step 1 MRTA hires a competent valuation agency (NuMAP – see profile <http://www.numap.co.th/home/index.php/th/>)

Step 2 NuMAP checks the district valuation of the parcel of land being acquired

Step 3 NuMAP finds records of sales in 9 locations (with detailed description of property being acquired and dates of sale)

Step 4 NuMAP deducts the value of the structure to obtain the land sale price per square wa

Step 5 NuMAP obtains the Sales/Asset valuation factor or S/A factor by dividing the land sale price from Step 3 by the district valuation for each of the 9 parcels of land

Step 6 NuMAP ranks the values obtained in Step 4 obtains the middle value as the S/A factor

Step 7 NuMAP multiplies the district valuation of the parcel of land being acquired (from Step 1) with the S/A factor in Step 4

Step 8 NuMAP obtains the EIRR from MRTA R&D Department [The government updates the land valuation every 4 years. MRTA acknowledges that prices of land have increased over time so its R&D Department estimates the price escalation over that period of time]

Step 9 NuMAP multiplies the value from Step 6 with the EIRR (for the yellow line its 15.65%) and uses that as the basis for calculating the compensation offer to be submitted to the District Committee

Step 10 District Committee reviews the MRTA offer if acceptable. If there is any change required, the Committee makes such recommendation [committee usually decides in favor of the affected people so the compensation rate typically would increase not decrease]

57. MRTA covers the transaction cost by registering the acquired land and compensating for the entitled person's expenses incurred in dealing with government representatives involved in

the expropriation process.⁵ The registration is exempted from fees and stamp duty. The entitled person regardless of the type and extent of loss will get a lump sum payment of 5,000-10,000 THB (co-ownership shall be deemed as single ownership) for the expenses incurred in its interaction with the representatives of the government involved in the expropriation process.⁶ The damage incurred during the survey of the land and other assets will also be fairly compensated.⁷

58. For lost structures, owners will be compensated for 10 cost items that will be incurred in its demolition and reconstruction as well as two forms of assistance (Table 9). The cost items compensated are as follows: (i) demolition cost; (ii) cost of materials; (iii) cost of labor; (iv) cost of damage to materials of the demolished structures and adjacent structures; (v) cost of transfer of materials; (vi) cost of government permit for demolition and construction; (vii) cost of prevention of accidents during demolition and construction; (viii) cost of design and supervision; (ix) cost of installation of utilities; and (x) cost of administration, interest, profit and tax. The audit finds that the MOT Manual covers every lost item and cost of reconstruction.

59. For the assistance, one form is 5.0% of total compensation of lost structure located in Bangkok or 2.5%-5.0% of total compensation of lost structure located in provinces. Another form is the damage fee of 100,000 THB for lost structure compensated for at least 100,000 THB and Minimum damage fee of 30,000 THB but not more than 100,000 THB for lost structure compensated for less than 100,000THB. In addition, the entitled person regardless of the type and extent of loss will get a lump sum payment of 5,000-10,000 THB (co-ownership shall be deemed as single ownership) for the expenses incurred in its interaction with the representatives of the government involved in the expropriation process.⁸

60. For lost structure used as place of business or work, the owner will be compensation for lost net income based on income tax return filed in the last three years before Royal Decree is effective or 12,000 THB per month in the absence of proof. The 12,000 THB per month is the minimum taxable income amount. Being based on actual income registered in income tax return, the compensation amount must be at replacement value. The Supreme Administrative Court ruled on an appeal that the determination of compensation as equivalent to income from occupation based on income tax return in the past one year is appropriate.⁹

61. The duration of the monthly compensation is between six and or 12 months depending on the type of business or work (Table 16). This duration is expected to be sufficient to enable the affected person re-establish his business or work and restore his income if he can replace the lost structure and previous location with similar ones. The reason for such expectation is the ease of establishing business in Thailand which can take only 4.5 days.¹⁰ Further, the four of the five steps of the business establishment process are free of charge. Only the registration of memorandum of association to apply for company registration and to obtain a Tax Identity Number (TIN) is paid.

⁵ 1987 Immovable Property Expropriation Act (Section 11), 1997 Procurement of Immovable Property for Public Transportation Enterprise (Section 15) and MOT Manual of Compensation (Section 3.5.5).

⁶ MOT Manual of Compensation (Section 3.5.5)

⁷ 1987 Immovable Property Expropriation Act (Section 13) and 1997 Procurement of Immovable Property for Public Transportation Enterprise (Section 19).

⁸ MOT Manual of Compensation Section 3.5.5

⁹ MOT Manual of Compensation Part 6 Appendix 5.3

¹⁰ World Bank Group. 2018. Doing Business: Reforming to Create Jobs: Economy Profile Thailand. A World Bank Group Flagship Report. Washington D.C..

Table 16
Entitlement for the Physically-Displaced Structure -Owners Based of the MOT Manual of Compensation

| Entitlement | Owners of Structure Used for Dwelling | Owners of Structure Used for Both Dwelling and Livelihood | Owners of Structure Used for Livelihood |
|---|---------------------------------------|---|---|
| 1.0 Items Compensated for Demolished Structure | | | |
| 1.1 Demolition cost (generally 15%-20% of construction labor cost but it can be determined for each case if the structure is unique) | X | X | X |
| 1.2 Cost of materials (based on government index value on the date of the compensation committee's determination) | X | X | X |
| 1.3 Cost of construction labor (based on the price of similar structure of the Budget Standard Bureau) | X | X | X |
| 1.4 Cost of damage to the materials of the demolished structure and adjacent structures (based on the price of Bureau of Trade and Economic Indices or Provincial Commercial Office with no depreciation deduction except for abandoned structures) | X | X | X |
| 1.5 Cost of the transfer of materials (determined for each case) | X | X | X |
| 1.6 Cost of government demolition and construction permit | X | X | X |
| 1.7 Cost of prevention of accidents during demolition and construction (based on lump-sum price survey) | X | X | X |
| 1.8 Cost of Design and Supervision (4.0% of construction cost for 0-10 Million THB structure and 3.5% for over 10 Million THB structure. | X | X | X |
| 1.9 Cost of installation of utilities (based on actual amount paid) | X | X | X |
| 1.10 Cost of Factor F: Administration, Interest, Profit and Tax ¹ | X | X | X |
| 2.0 5.0% of total compensation of lost structure located in Bangkok or 2.5%-5.0% of total compensation of lost structure located in provinces | X | X | X |
| 3.0 Damage fee of 100,000 THB for lost structure compensated for at least 100,000 THB and Minimum damage fee of 30,000 THB but not more than 100,000 THB for lost structure compensated for less than 100,000THB | X | X | X |
| 4.0 Compensation for lost net income based on income tax return filed in the last three years before Royal Decree is effective or 12,000 THB per month in the absence of proof for at least 6 months | | X | X |

¹ There will be a specification of parameter Factor F of job cost not exceeding Baht 50,000 by combining difference of administration cost and profit of job cost not exceeding Baht 50,000 with job cost note exceeding Baht 1 million of original parameter Factor F table. The difference of administration = 3.50 (10.00-6.50) and profit difference = 7.50 (18.50-11.00) combined with administration cost and profit of parameter Factor F table as announced on the date when the basic price determination committee has determined price compensation. Then, there is a calculation to determine parameter r Factor F of job cost not exceeding 50,000 pursuant to this path. In the even that cost is within the range of specified job Factor F pursuant to the rules and there is a result of parameter Factor F equaling to 1.3903. If the cabinet resolution has specified new parameter Factor F which differs from the original rate, there shall be an amendment of parameter cost, there shall be a comparison to determine the ration for determining parameter Factor F pursuant to formula as follows:

$$\text{Parameter Factor F of Job Cost A} = D - \{(D - E) \times (A - B) / C - B\}$$

If the job cost = Baht A

Job cost is lower than A = Baht B

Job cost is higher than A = Baht C

Parameter Factor F of job cost B = D

Parameter Factor F of job cost C = E

Source: MOT Manual of Compensation

Table 17
Number of Monthly Compensation for Lost Income by Type of Income Source

| No. | Type of Business | Period for Compensation Determination |
|------------------------------------|--|---------------------------------------|
| 1. | General Trading and Service such as shop selling goods and service, minimart, food shop, restaurant, on line service, internet café, tailor shop, cloth shop, beauty salon, clinic, decorative selling shop, gold shop, jewelry shop, shop selling agricultural equipment and animal feed, veterinarian shop, shop selling electrical and water appliances, shop selling construction materials and equipment (shop house), antique shop, shop selling and exchanging used car and motorcycle, shop selling car decorations, car and motorcycle repair garage, rent house and shop house for rent, etc. | 6 months |
| 2. | Medium Sized Business such as shop selling construction materials and equipment (has a nature of being a fully integrated construction material business operation related to construction work except shop selling construction materials and equipment in the form the of shop house), etc. | 8 months |
| 3. | Large Sized Business bigger than Item 2 such as apartment, condominium, petrol station, market and factory, etc. | 12 months |
| Source: MOT Manual of Compensation | | |

3.4 Eligibility and Entitlement

62. The entitlement matrix shows the components of the compensation package that an entitled person will get as practiced by MRTA (Table 11). Fair market price is the main basis for compensation in ADB requirements to ensure that affected households will get the amount at replacement cost. But market price is just one of the factors considered by the MOT Compensation Manual and by the MRTA Compensation Committee in setting the compensation amount for the affected households. While the methods of calculating the amount of compensation is provided in the Compensation Manual, the equivalence of the outcome with the market rate is only determined by comparing the final compensation amount with prices in the open property market.

Table 18
Entitlements of Affected People and Gaps Under ADB Safeguards Policy

| Type of Loses | Entitled Household | Entitlement Based on MRTA Practice | Remarks |
|--------------------------------------|---|---|--|
| Loss of land | All households with title and recognizable claims to land | i. Compensation based on surveyed market price and characteristics of the property. li Disturbance fee | Where comparable information on valuation was obtained, the audit finds that compensation for land offered to all entitled households at an amount equivalent to or higher than market price. Transaction costs Disturbance fee are provided |
| Total and partial loss structures | All types of structure owners | i. Compensation based on surveyed market price taking into account the location, space size, quality and type of materials and form of the structure, rebuilding cost and demolition cost | All types of structures are compensated with market price as one of the basis |
| Residual land | All households with title and recognizable claims to land | I Compensation is lower than the land portion expropriated taking into consideration the purpose of expropriation, impact of the project on the condition, size, shape of the land after the expropriation of the other portion, accessibility and distance from the from other land of the owner and legal restrictions imposed on land use. ii Paid land transfer expenses including registration iii. Option for replacement land if the lost land is adjacent to other land owned by the same person. | Residual land is compensated and all transfer fees are paid |
| Trees | All types of land tenure | i. Compensation based on the price set by the Provincial Agriculture Office or expropriation done in the vicinity or market price | All affected trees are compensated |
| Business income | All business owners | i. Compensation based on income tax return or other evidence of income of the last 3 years ii. Percentage of replacement cost of the structure where the business is conducted. | Lost business income and business structure are compensated |
| Temporary impact during construction | All types of tenure and type of ownership | i. In case of complaints about environmental problems, the concessionaire shall without delay take remedial action at its expense | The concessionaires and contractors are monitored ensure immediate response to construction impacts |
| Losses of the vulnerable groups | All vulnerable groups | Special measures from the concessionaire and members of the consortium such as scholarships, health and medical services and health and skills training for the elderly | No household below poverty line is identified in the October-December 2017 survey. |

Chapter 4: Assessment of Land Acquisition and Compensation Undertaken for the Project

4.1 MRTA Compensation Package

63. MRTA's compensation package comprises a combination of : (i) fair market value for the land; (ii) compensation for affected structures, (iii) compensation for trees, (iv) compensation fee for damages on whole house; (v) compensation fee for disruption of business operations; (vi) compensation fee for damages incurred in procuring a new business/residence (vii) other expenses and (viii) compensation fee for damages under 1987 Immovable Property Expropriation Act Section 21 final paragraph. The compensation fee for damages incurred in procuring a new business/residence is 5.0% of total compensation of lost structure located in Bangkok or 2.5%-5.0% of total compensation of lost structure located in provinces. The other expenses include those incurred by the entitled person in dealing with government representatives involved in the expropriation process.¹¹ For these expenses, the entitled person regardless of the type and extent of loss will get a lump sum payment of 5,000-10,000 THB (co-ownership shall be deemed as single ownership) for the expenses incurred in its interaction with the representatives of the government involved in the expropriation process. The compensation under Section 21 of the 1987 Immovable Property Expropriation Act is for other damages directly resulting from expropriation for which the entitled can present a proof.¹² The amount of compensation is determined for each case.

4.1.1 Assessing MRTA Land Prices

64. The objective of assessing MRTA land prices is to determine if these are equivalent to fair market value as required under Thai Law and whether MRTA compensation offers are aligned with ADB's requirement to compensate at replacement cost. Replacement cost for lands under ADB's SPS calculation of full replacement cost comprises (a) fair market value; (b) transaction costs; (c) interest accrued, (d) transitional and restoration costs; and (e) other applicable payments. . MRTA covers the transaction cost by registering the acquired land and compensating for the entitled person's expenses incurred in dealing with government representatives involved in the expropriation process.¹³ The registration is exempted from fees and stamp duty. The entitled person regardless of the type and extent of loss will get a lump sum payment of 5,000-10,000 THB (co-ownership shall be deemed as single ownership) for the expenses incurred in its interaction with the representatives of the government involved in the expropriation process.¹⁴ The damage incurred during the survey of the land and other assets will also be fairly compensated.¹⁵

65. When analyzing whether compensation is paid at replacement cost, this audit looked at whether compensation for land is paid at fair market value, confirm that transition and restoration costs are paid if required, and that no transaction costs were required to be paid by the property owner. In case of delay in payment of compensation, the entitled person will receive the interest

¹¹ MOT Manual of Compensation (Section 3.5.5)

¹² MOT Manual of Compensation (Section 3.5.5)

¹³ 1987 Immovable Property Expropriation Act (Section 11), 1997 Procurement of Immovable Property for Public Transportation Enterprise (Section 15) and MOT Manual of Compensation (Section 3.5.5).

¹⁴ MOT Manual of Compensation (Section 3.5.5)

¹⁵ 1987 Immovable Property Expropriation Act (Section 13) and 1997 Procurement of Immovable Property for Public Transportation Enterprise (Section 19).

earned determined based on the maximum interest rate of as savings account in the Government Savings Bank for the full amount of compensation.¹⁶ The amount of interest will be calculated from the day after the required time period for payment or deposit of compensation has lapse.

66. The MRTA land prices are contained in the List of Determination of Initial Prices of Immovable Property. One parcel corresponds to one title. The parcels are classified by district (Table 19). There are eight districts.

Table 19
Name of Districts and Number of Parcels with Listed Land Prices

| District | Number of Parcels with Listed Land Prices |
|--|---|
| Bangkok Metropolis | |
| Chathujak | 3 |
| Huay Kwang | 7 |
| Wang Thonglang | 39 |
| Bangkapi | 22 |
| Suan Luang | 17 |
| Prawet | 127 |
| Bangna | 13 |
| Samut Prakan Province | |
| Bangpli | 2 |
| Muang | 43 |
| Total | 273 |
| Source: MRTA. List of the Determination of Initial Prices of Immovable Property to be Expropriated and the Amount of Compensation, December 2017 | |

67. The MRTA land prices are compared to prices quoted in three valuation sources: Ministry of Treasury, internet advertisements and Agency for Real Estate Affairs (AREA). The last one is a private property consulting company specializing in property appraisal.¹⁷ The appraised land value of the Ministry of Treasury is an assessed value used to determine the amount of tax that must be paid. The assessed value is assigned to parcels which are in government database and to wholesale blocks.¹⁸ The Ministry of Treasury valuation price of the parcels in the MRTA's List of Determination of Initial Prices of Immovable Property is obtained and used in the comparison with MRTA price. The total number with Ministry of Treasury prices is 24 parcels

68. The internet advertised prices were on land for sale along the same road or within the same sub-district as the MRTA-acquired parcels.

69. The AREA land valuation prices are available by zone. One zone has four parcels with a range of prices. The zones are separated from each other with no standard distance in between. To approximate the valuation price of a parcel, the price determined for one or two zones nearest to it and used as the reference price in comparing with the MRTA land price for each parcel.

4.1.2 Assessing MRTA Compensation payments for Structures

¹⁶ 1987 Immovable Property Expropriation Act (Section 33) and 1997 Procurement of Immovable Property for Public Transportation Enterprise (section 34).

¹⁷ <http://www.area.co.th/english/about>

¹⁸ <https://www.samuiforsale.com/real-estate/registered-land-value.html>

70. Compensation for structure is determined based on the requirements of the MOT Manual of Compensation (Table 20).

Table 20 MOT Manual of Compensation Requirements in Determining Structure Compensation

| No | Factors Considered in Compensation Determination | Method of Amount Determination |
|----|---|--|
| 1 | <u>Cost of Property Movement:</u> cost in moving the property inside the House or Building which is subject to removal including cost of transportation and loading/unloading | Price search pursuant to the facts of each area. |
| 2 | <u>Cost of Removal</u> of House or other building from the land which is subject to expropriation; and <u>Cost of Removal Permit and Accident Prevention:</u> fees in making an application for removal paid to the responsible government agency who will grant a permit such Bangkok Metropolitan Administration, municipality, Sub-district Administration Organization, etc. including cost in preventing the materials and dust from falling | <u>Method of Determination</u> General building is subject to a rate of 15-20% of labor cost. However, the price estimator will use appropriate discretion to align with the nature and type of building which is subject to expropriation but the price shall not be lower than minimum wage of 2 workers working for 1 day in the expropriation area. Building with special nature such as Thai style building, high building, etc. as appeared in the fact stating that the cost of removal is higher than specified rate. The official will appropriately review along with reasons and supporting document on case by case basis |
| 3 | <u>Cost of Movement of Materials:</u> the cost of moving all removed materials including the transportation and loading/unloading | Use of price of price search in accordance with the facts of each area. |
| 4 | <u>Cost of Construction Materials:</u> damage of materials for construction of the removed House and other Building caused by the removal. | Use of price of Bureau of Trade and Economic Indices, Office of Permanent Secretary of Ministry of Commerce, or Provincial Commercial Office by excluding value added tax. If the price of any construction materials is not available, use the search of selling price within the expropriation area whereby the price does not include value added tax. There shall not be any depreciation deduction of the materials unless the building has been abandoned until it is in a deteriorated condition. |
| 5 | <u>Cost of Construction Labour</u> refers to the cost of construction labour in constructing new building of similar nature to the original form. | In Bangkok Metropolitan Region, there shall be the use of wage rate list for duplication and calculation of benchmark price of building construction of Budget Standard Bureau, Bureau of the Budget most recently announced for use. In the event that the minimum wage of Ministry of Labour changes from the rate used as a base for determination of wage list of the most recent year, there shall be an adjustment in proportion with the minimum wage rate which has changed |
| 6 | <u>Cost of Factor F (Cost of Administration, Interest, Profit and Tax)</u> | There will be a specification of parameter Factor F of job cost not exceeding Baht 50,000 by combining difference of administration cost and profit of job cost not exceeding Baht 50,000 with job cost note exceeding Baht 1 million of original parameter Factor F table. The difference of administration = 3.50 (10.00-6.50) and profit difference = |

| | | |
|---|---|---|
| | | 7.50 (18.50-11.00) combined with administration cost and profit of parameter Factor F table as announced on the date when the basic price determination committee has determined price compensation. Then, there is a calculation to determine parameter Factor F pursuant to the rules and there is a result of parameter Factor F equaling to 1.3903. |
| 7 | Cost of Design and Work Supervision refers to hiring cost for designing, drawing the layout plan, hiring engineer to calculate the building structure and cost of work supervision. | For 0 – 10 Baht million Construction Cost: 4% of Cost of Construction (Cost of Design at 2% and Work Supervision at 2%) For Excess of 10 Baht million Construction Cost: Excess of Baht 10 million, the rate is at 3.50% of Cost of Construction (Cost of Design at 1.75% and Work Supervision at 1.75%) |
| 8 | Cost of construction permit application and accident prevention: fees for construction permit payable to the responsible government agency including cost in preventing falling materials and dust | For construction application and permit fees which is specified in accordance with the government charged rate for cost in preventing the materials and dust from failing, there shall be use of lump sum price search. |
| 9 | Other expenses: cost in movement and installation of electrical equipment, water, telephone, air-conditioner, television signal receiver, etc. | The determination of other expenses shall be in accordance with actual amount paid to the relevant agency which is responsible for the charge or with actual charge. |

Source: MOT Manual of Compensation, Section 3.2 pages 19-32.

4.1.3 Assessing MRTA Compensation payments for Trees and Crops

71. The compensation rate for a tree is determined based on requirements of MOT Compensation Manual. In case of general perennial plant, determination of the cost of perennial plant shall be in accordance with the price list specified by Provincial Agricultural Extension Office. If such list is not available, compensation determination shall be based on price list previously specified in the expropriation project in the nearby zone of other agency. In case that there is no price as mentioned above, price search in the market on the date when the Royal Decree is entered into force. However, the use of price list of Provincial Agricultural Extension Office or expropriation project of other agency, there shall be a reference to market selling price on the date when the Royal Decree is entered into force.

72. In the case that the perennial plant is grown for earning a living and the products have been harvested, there shall be a determination of compensation as above requirement. Damage for loss of income from products harvested is at 10% of tree compensation or there shall be a determination pursuant to the fact in the case that there is a proof showing that the damage is higher than such rate. ¹⁹

4.1.4 Assessing MRTA Compensation payments for Business Disruption

¹⁹ 1987 Immovable Property Expropriation Act (Section 21) and MOT Manual of Compensation Section 3.1.1.(3)

73. The Supreme Administrative Court ruled on an appeal that the determination of compensation as equivalent to income from occupation based on income tax return in the past one year is appropriate.²⁰ The ruling serves to validate that the basis used to determine the compensation for lost income is fair or the compensation is equivalent to what is lost.

4.2 Results of Assessment of Average MRTA Land Prices

74. Where sufficient information on land valuation was obtained for land parcels to be acquired, the audit finds that the average MRTA land offer price is higher compared to the valuation of the Ministry of Treasury, internet-advertisements and AREA. *(This information has been removed as it falls within the exceptions to disclosure specified in para 97(v) of ADB's Public Communication Policy)*

75. In addition to paying compensation at market rates, MRTA also covers administrative or transaction costs, among other assistance which aligns MRTA practices with ADB SPS SRS2 requirements for compensation at replacement cost. Where there are MRTA compensation offers that are perceived lower than the internet advertised prices or with real estate appraisal company's valuation or both, this is likely due to several reasons (i) internet advertised asking prices most likely shows the price of land and structures given that the Project area is in a heavily built urban metropolis, (ii) the parcel's peculiarities – shape of land or the distance of the parcel from the area referenced in the real estate appraisal company's valuation; (iii) lack of data on sales of land in the vicinity. Nevertheless, MRTA has a robust grievance mechanism where the affected household can file as case in the grievance mechanism. If it is deemed the prices paid is unfair to the affected person, the law provides that the minister with the approval of the Council of Ministers can order the Compensation Committee to reappraise the prices and reset the compensation rates.

4.3 Results of Assessment of MRTA Compensation payments for Structures

76. MRTA attests that owners are being compensated for the following cost items following MOT Compensation Manual: (i) demolition cost; (ii) cost of materials; (iii) cost of labor; (iv) cost of damage to materials of the demolished structures and adjacent structures; (v) cost of transfer of materials; (vi) cost of government permit for demolition and construction; (vii) cost of prevention of accidents during demolition and construction; (viii) cost of design and supervision; (ix) cost of installation of utilities; and (x) cost of administration, interest, profit and tax. The audit finds that MOT Manual covers every lost item and cost of reconstruction and therefore consistent with ADB SPS requirements on payment of compensation for structures at replacement cost.

77. In addition, assistance is provided in the form (i) 5.0% of total compensation of lost structure located in Bangkok; (ii) damage fee of 100,000 THB for lost structure compensated for at least 100,000 THB and Minimum damage fee of 30,000 THB but not more than 100,000 THB for lost structure compensated for less than 100,000THB. Furthermore, the entitled person regardless of the type and extent of loss will get a lump sum payment of 5,000-10,000 THB (co-ownership shall be deemed as single ownership) for the expenses incurred in its interaction with the representatives of the government involved in the expropriation process.²¹ Payment of this

²⁰ MOT Manual of Compensation Part 6 Appendix 5.3

²¹ MOT Manual of Compensation Section 3.5.5

assistance are observed in the sample list of indicative compensation amounts provided to the audit team.

4.4 Results of Assessment of MRTA Compensation payments for Trees and Crops

78. MRTA also attests that the owner is also being compensated in accordance with the MOT Compensation Manual.

4.5 Results of Assessment of MRTA Compensation payments for Business Disruption

79. Where lost structure is used as place of business or work, MRTA attests that the owner is also being compensated in accordance with the MOT Compensation Manual. For lost net income based on income tax return filed in the last three years before Royal Decree is effective or 12,000 THB per month in the absence of proof. The 12,000 THB per month is the minimum taxable income amount. Being based on actual income registered in income tax return, the compensation amount must be at replacement value. The Supreme Administrative Court ruled on an appeal that the determination of compensation as equivalent to income from occupation based on income tax return in the past one year is appropriate.²² The ruling serves to validate that the basis used to determine the compensation for lost income is fair or the compensation if equivalent to the lost equivalent.

80. The duration of the monthly compensation is between six and or 12 months depending on the type of business or work (Table). This duration is expected to be sufficient to enable the affected person to re-establish his business or work and restore his income if he can replace the lost structure and previous location with similar ones. The reason for such expectation is the ease of establishing business in Thailand which can take only 4.5 days.²³ Further, the four of the five steps of the business establishment process are free of charge. Only the registration of memorandum of association to apply for company registration and to obtain a Tax Identity Number (TIN) is paid.

81. The Supreme Administrative Court ruled on an appeal that the determination of compensation as equivalent to income from occupation based on income tax return in the past one year is appropriate.²⁴ The ruling serves to validate that the basis used to determine the compensation for lost income is fair or the compensation if equivalent to the lost equivalent.

²² MOT Manual of Compensation Part 6 Appendix 5.3

²³ World Bank Group. 2018. Doing Business: Reforming to Create Jobs: Economy Profile Thailand. A World Bank Group Flagship Report. Washington D.C..

²⁴ MOT Manual of Compensation Part 6 Appendix 5.3

Chapter 5: Socio-economic Baseline

82. The EIA does not provide the socioeconomic information of the affected households. This information gap is filled up by the result of supplementary socioeconomic survey done on October-December 2017. The survey covered 35 households with affected assets and 500 households living along the Yellow Line route but whose assets are not affected. From the survey result can be gleaned the basic characteristics of the households and their sources of information. For the households with affected assets, the severity of the impact on their assets is revealed as well.

5.1 Demographic Condition

83. The eight districts traversed by the Yellow Line Project has a total population of 980,163 in 2012 (Table 22). There are more women than men constituting 53.32% of the population. With a total area of 380.9 square kilometer, the districts have an average density of 2,573 persons per square kilometer. This number is lower than the density of Bangkok Metropolitan Region which registered at 5,578 persons. Their average household has 1.85 members or lower than the metropolis' average of 2.73 persons.

Table 22 Population Number, Population Density, Household Number and Household Size in Study Area

| Province/District | Population number | | | Area (km ²) | Population Density (person/km ²) | Household Number (Unit) | Household Size (person/household) |
|--|-------------------|----------------|----------------|-------------------------|--|-------------------------|-----------------------------------|
| | Male | Female | Total | | | | |
| Bangkok Metropolitan Administration | | | | | | | |
| 1. Chatuchak District | 75,637 | 85,216 | 160,853 | 32.908 | 4,887.96 | 94,442 | 1.70 |
| 2. Huai Khwang District | 35,884 | 42,323 | 78,207 | 15.033 | 5,202.35 | 55,133 | 1.42 |
| 3. Wang Thonglang District | 52,758 | 61,990 | 114,748 | 18.905 | 6,069.72 | 55,960 | 2.05 |
| 4. Bang Kapi District | 67,729 | 80,762 | 148,491 | 28.523 | 5,206.01 | 92,013 | 1.61 |
| 5. Suan Luang District | 53,828 | 61,903 | 115,731 | 23.678 | 4,887.70 | 57,563 | 2.01 |
| 6. Prawet District | 76,182 | 84,634 | 160,816 | 52.490 | 3,063.75 | 72,210 | 2.23 |
| 7. Bang Na District | 45,248 | 50,607 | 95,855 | 18.789 | 5,101.66 | 55,043 | 1.74 |
| Sub - total | 407,266 | 467,435 | 874,701 | 190.326 | 4,595.80 | 482,364 | 1.81 |
| Samut Prakan Province | | | | | | | |
| 1. Mueang District | 50,288 | 55,174 | 105,462 | 190.557 | 553.44 | 46,445 | 2.27 |
| Sub - total | 50,288 | 55,174 | 105,462 | 190.557 | 553.44 | 46,445 | 2.27 |
| Grand total | 457,554 | 522,609 | 980,163 | 380.883 | 2,573 | 528,809 | 1.85 |
| Percentage (%) | 46.68 | 53.32 | | | | | |

Source : Department of Provincial Administration, 2012.

5.2 Households With Affected Assets

84. The respondents for the households with affected assets are almost equally divided between men and women (Table 23). Around 77.1% of them are native-born and have been living in Bangkok Metropolis or Samut Prakan Province since birth. Exactly 60% are earning over 50,000 THB a month and no one earns less than 10,000 THB a month. This means that no household is living below the 2015 poverty line of 2,644 THB per month.

85. The structure affected for 51.4% is commercial in use. Around 11.5%, are two-story houses which are assumed to be purely residential in use. The rest are rented structures. Around 65.7% of the households surveyed own the affected structure while 34.3% are renters. For slightly more than half of these households, the structure they are using will be fully demolished. For the rest, the damage will be confined to a part of the structure.

86. Among the sources of information on the Yellow Line, the respondents mentioned the MRTA staff 68.6% of the times. The other sources of information mentioned, albeit, at less frequency are their relatives and neighbors, TV and the social media. Around 80.0% reported to have received information on land acquisition procedures directly from MRTA staff. The rest may not have received yet as land acquisition was on-going during the survey.

Table 23 Result of the Survey Among Households with Assets Affected by the Yellow Line (N=35)

| Item | Percentage |
|---|------------|
| Gender of Respondents | |
| Men | 51.4 |
| Women | 48.6 |
| Total | 100 |
| Place of Birth of Respondents | |
| Bangkok Metropolis | 65.7 |
| Samut Prakan Province | 11.4 |
| Others | 22.9 |
| Total | 100 |
| Distribution by Income Level (THB) | |
| 5,000-10,000 | 0 |
| 10,001-20,000 | 5.7 |
| 20,001-30,000 | 14.3 |
| 30,001-40,000 | 8.6 |
| 40,001-50,000 | 11.4 |
| 50,000 and over | 60 |
| Total | 100.0 |
| Type of Affected Structure | |
| Commercial Building | 51.4 |
| Rented rooms, apartments, shops | 37.1 |
| Two-story house | 11.5 |
| Total | 100.0 |
| Tenure of Structure | |
| Owned | 65.7 |
| Rented | 34.3 |

| | |
|---|------|
| Total | 100 |
| Severity of Damage to the Structure | |
| Total | 51.4 |
| Partial | 48.6 |
| Total | 100 |
| Source of Information on Yellow Line | |
| MRTA Staff | 68.6 |
| TV | 3.9 |
| Relatives, neighbors | 2.0 |
| Social media | 7.8 |
| Flyers | 2.0 |
| Others (e.g., seeing the project close to home) | 15.7 |
| Total | 100 |
| Receipt of Information form MRTA on Land Acquisition Procedures | |
| Received information from MRTA | 80 |
| Did not receive information from MRTA | 20 |
| Total | 100 |
| Source: Pre-Construction Environmental Impact Monitoring Report Yellow Line Monorail Project, Lat Phrao – Samrong Section, Sino-Thai Engineering & Construction Public Company Limited, Chapter 7: Study of Socioeconomic Conditions and Public Opinion | |

5.3 Households With Unaffected Assets

87. The respondents for the surveyed households with unaffected assets were 61.2% women (Table 24). Around 61.0% of the respondents were the household head. Those who were born in either Bangkok Metropolis or Samut Prakan Province compose 68.0 percent. The rest were from outside and migrated into their present area of residence. About 78.6% have more than primary education. Some 28.8% have university diploma or even pursued post-graduate studies. Mostly were informed about the Yellow Line Project. Only 9.4% did not have any information. TV and word-of-mouth were cited as the main information sources accounting for 35.9% and 35.3% of the sources mentioned.

88. The modal household size is between four to seven members (Table 25). The number of members of 60.0% of the households is within this range. Most of the households derive income from commerce or business. Around 76.0% reported that the primary occupation of the household head is either as a trader or business owner. Their income is relatively high with 88.2% earning more than 20,000 THB a month. Only 0.4% are earning between 5000 to 10,000 THB a month. No one is below the country’s 2015 poverty line of 2,644 THB a month.

89. Their level of income and source reflect the type structure they use along the Yellow Line route. Around 41.2% are users of commercial structure. The rest are used either a purely residential or mixed-residential and commercial. About 61.6% own the structures they use. The rest are renters or under non-ownership type of arrangement.

Table 24
Characteristics of the Respondents for Households Surveyed Along the Yellow Line with Unaffected Assets (N=500)

| Item | Percentage |
|---|------------|
| Gender of Respondents | |
| Men | 38.8 |
| Women | 61.2 |
| Total | 100.0 |
| Position of Respondents in the Household | |
| Head | 61 |
| Spouse | 23 |
| Son or Daughter | 7.2 |
| Others | 8.8 |
| Total | 100 |
| Place of Birth of Respondents | |
| Bangkok Metropolis | 56.0 |
| Samut Prakan Province | 12.0 |
| Others | 32.0 |
| Total | 100.0 |
| Education of the Respondent | |
| Primary | 21.4 |
| Secondary | 32.2 |
| Vocational | 17.6 |
| University Graduate | 26.0 |
| Others (e.g., Post-graduate) | 2.8 |
| Total | 100 |
| Information About the Yellow Line | |
| Informed | 90.6 |
| Not informed | 9.4 |
| Total | 100 |
| Sources of information | |
| MRTA Staff | 7.4 |
| TV | 35.9 |
| Poster and billboard | 3.6 |
| Relatives and neighbors | 35.3 |
| Social media | 13.3 |
| Website | 4.5 |
| Total | 100 |
| Source: Pre-Construction Environmental Impact Monitoring Report Yellow Line Monorail Project, Lat Phrao – Samrong Section, Sino-Thai Engineering & Construction Public Company Limited, Chapter 7: Study of Socioeconomic Conditions and Public Opinion | |

Table 25
Selected Characteristics Households with Unaffected Assets Along the Yellow Line (N=500)

| Item | Percentage |
|---|------------|
| Household Size | |
| 1.3 members | 35.8 |
| 4-7 members | 60.0 |
| 8-10 members | 3.8 |
| Over than 10 members | 0.4 |
| Total | 100 |
| Occupation of Household Head | |
| Private employee | 14.6 |
| Trader (commercial) | 41.6 |
| Business (private enterprise) | 34.4 |
| Others (Gov't, Retired, Housewife, Unemployed) | 9.4 |
| Total | 100 |
| Distribution by Income Level (THB) | |
| 5,000-10,000 | 0.4 |
| 10,001-20,000 | 11.4 |
| 20,001-30,000 | 29.4 |
| 30,001-40,000 | 19.4 |
| 40,001-50,000 | 16.6 |
| 50,000 and over | 22.8 |
| Total | 100 |
| Type of Structure Used | |
| Commercial Building | 51.2 |
| Town house | 12.0 |
| One-storey house | 10.2 |
| Two-storey house | 17.4 |
| Others (e.g., shophouse) | 9.2 |
| Total | 100 |
| Tenure of Structure Used | |
| Owned | 61.6 |
| Rented | 36.0 |
| Others | 2.4 |
| Total | 100 |
| Source: Pre-Construction Environmental Impact Monitoring Report Yellow Line Monorail Project, Lat Phrao – Samrong Section, Sino-Thai Engineering & Construction Public Company Limited, Chapter 7: Study of Socioeconomic Conditions and Public Opinion | |

Chapter 6: Information Disclosure, Consultation and Participation activities

6.1 ADB Policies on Information Disclosure and Stakeholders' Participation

90. As part of its Public Communications Policy, ADB recognizes the right of people to seek, receive and impart information and ideas about ADB-assisted activities.²⁵ The rationale of this policy is that the views of stakeholders are needed for ADB-assisted activities to meet demands and be effective. This rationale complements ADB Safeguards Policy which considers consultation and participation central to the achievement of safeguard policies objectives.²⁶

6.2 Type of Stakeholders and Project Impact

91. The Yellow Line Project has five direct stakeholder groups: commuters, property users, business operators along the route, private service providers (hospitals, schools and places of worship) and government offices along the route (Table 21). The property users are divided into two: households with expropriated assets and those whose unaffected properties. In the long-term, all the stakeholder groups, except the households who will lose all their lands or structure and will move out far from their present location, will benefit from the project. Those who will lose their all their land or structure will be compensated at replacement cost.

92. The commuters, business operators along the route, private service providers and government offices will gain easier point-to-point access. Further, the property owners with unaffected properties and those with affected properties but will stay in the area along the route will gain from increased property value. The easier access may also redound to the higher business intensity among business operators along around the stations. But in the short-term, the commuters and property users along the route will bear the brunt of the increased traffic, dust and vibration during construction. These property users will also be exposed to the risks that the presence of workers may pose including communicable diseases and social disturbance

6.3 Information Disclosure and Consultations in EIA Preparation

93. The information disclosure and consultation activities were conducted between May and November 2013 as part of the EIA preparation. During this period, information was disclosed using multi-media channels (Table 21). These channels include the conventional media (TV, radio and print), distribution of leaflets and brochure, video, exhibition boards and a dedicated website. Conventional media representatives were invited to meetings and public hearing. Around 20,000 leaflets and 60,000 brochures were distributed. Two video sets were produced. Two Yellow Line website was opened and are still currently operating. The MRTA has also a media center where information is readily available to the media and public.

94. Within the same period, 18 consultation meetings were held (Table 26). Two were with the communities along the route. The number of consultation meetings with other stakeholder

²⁵ ADB. 2011. Public Communications Policy. Manila. Paragraph 30

²⁶ ADB. 2009. Safeguard Policy Statement. June. Paragraph 32

groups were as follows: four with local government units; eight with big business operators and one with private service providers. Two public hearings were additionally held with a total of 690 participants. The distribution of the participants by station location and sectoral representation are in Appendix 3.

95. In these meetings, available project details were disclosed and questions about the project and its impacts were answered in a two-way discussion format. The concerns raised with general socio-economic implications are the following: (i) need for sectoral consultation; (ii) access between stations and business establishments; (iii) use of private areas by train users; (iv) amount of train fare; (v) parking areas; (vi) emergency safety provision; (vii) decision-making station location; (viii) traffic generation; (ix) need for more information; (x) need for additional stations; (xi) land acquisition; (xii) compensation of acquired land; (xiii) replacement of affected structures; (xiv) potential impact on archeological sites and objects; (xvi) noise and vibration; and (vii) flooding. The details of these concerns are in Appendix 4.

Table 26
Project Stakeholders, Estimated Number of Persons and Impact

| Stakeholder Groups | No of Person | Impact | Duration | |
|--|---|---------------------------------------|-----------|-----------|
| | | | Temporary | Permanent |
| Commuters | 44,000 persons / hour/direction maximum | Increased Traffic | X | |
| | | Easier travel | | X |
| Property Users | | | | |
| With Expropriated Assets | Owners of land parcels Owners of non-land assets and tenants | Loss of land and other assets | | X |
| No Expropriated Assets | 65,550 persons living within 500 meters from the route ¹ | Increased traffic, dust and vibration | X | |
| | | Risk generated workers | X | |
| | | Increased property values | | X |
| Business Operators Along the Route | No information on exact number | Easier access | | X |
| | | Increased business | | X |
| Private Service Providers* | 69 schools, 3 hospitals and 18 temples and other religious places | Easier access | | X |
| Government Offices* | 5 national offices; 4 provincial offices; 7 district offices; 12 other government offices | Easier access | | X |
| * Independent research on Google Maps, accessed on 8 March 2018. Data not available in the EIA report ¹ 34.5 km length x 1 m impact area width (500 meter per side) = 34.5 km ² x 1900 persons/km ² = 65,550 persons | | | | |

Table 27
Information Dissemination Activities for EIA Preparation

| Medium | Unit of Measure | Remarks |
|--|---|--|
| Media center | 1 media center | MRTA operates a media center. |
| Conventional media | Not applicable | Members of the press and other media were invited and participated in the public hearings and focus group meetings held for stakeholders. |
| Leaflets Distribution | 20,000 sets produced | <ol style="list-style-type: none"> Leaflet on the Expropriation Law of 2530 Leaflet on the Procurement Law of 2540 1,169 leaflets distributed on 27-30 July 2013 |
| Brochure Distribution | 60,000 sets produced | <ol style="list-style-type: none"> Brochure on the Yellow Line; produced in Thai and English |
| Exhibition Board | <ul style="list-style-type: none"> 38 boards for the Royal Decree; 49 signs along the Yellow Line route | <ul style="list-style-type: none"> Royal Decree is posted on boards at the following offices: (1) Office of the Officer; (2) Bangkok Metropolitan Administration, Khet (district) Office, Khwaeng (sub-district) Office, Changwat (provincial) Office, Amphoe (district) or King Amphoe (sub-district) Office, Tambol (township) Office, Village Head Man's Office, as the case may be, where the immovable property to be expropriated is located; (3) Changwat Land Office and Amphoe Land Office where the immovable property to be expropriated is located. Thus: <ul style="list-style-type: none"> 2=MRTA offices 1=BMA office 9=district offices 14 sub-district offices 1=Samut Prakan provincial office 2=Samut Prakan district offices 3=Samut Prakan sub-district offices 6=Samut Prakan village offices Signs posted over 30 km of the route of the Yellow Line Project |
| Video | 2 sets of 50 discs each | <ul style="list-style-type: none"> Shown to participants in 2 public meetings and in focus group meetings Also available for distribution |
| Dedicated website | 2 websites | <ol style="list-style-type: none"> https://www.mrta.co.th/en/projectelectrictrain/yellowline/ www.mrta-yellowline.com |
| Source: <i>Report on Changes in Project Details in the EIA Reports on the Bangkok Mass Transit Yellow Line Project: Lat Phrao-Samrong, combining the EIA Report for the MRT Yellow Line Project (Ratchada-Lat Phrao-Phatthanakan) and the EIA Report for the MRT Dark Yellow Line Project (Phatthanakan-Samrong)</i> ; prepared by Asian Engineering Consultants Co., Ltd; Hamburg-Consult GmbH; D2 Consult Asia Co., Ltd; Wisit Engineering Consultants Co., Ltd; Prime Street Advisory Co., Ltd. (Thailand); and, Enrich Consultant Co., Ltd; April 2016; Chapter 9. | | |

Table 28
Consultations Done for EIA Preparation and Social Concerns Raised

| Group | Date of Meeting | Social Concerns Raised |
|---|------------------------|---|
| Business | | • |
| Seacon Square Department Store | 10 May 2013 | <ul style="list-style-type: none"> • Need for consultation with all department stores in the route. • Customers access to the mall from the station. • Decision maker on the location of stations • Use of private parking area by train users but not shoppers • Legal limits on fare |
| Thanya Shopping Park Srinagarindra | 17 May 2013 | <ul style="list-style-type: none"> • Provision of parking space for taxis and vans; • Need for fire escape and safety systems |
| Lat Phrao Plaza Co., Ltd. | 5 June 2013 | Decision-maker in station location Solution to traffic generation <ul style="list-style-type: none"> • Need for information on project construction and completion. |
| Paradise Park Shopping Center | 17 June 2013 | <ul style="list-style-type: none"> • Need for another station . • Access between station and malls. |
| Siam Makro PCL | 11 July 2013 | <ul style="list-style-type: none"> • Traffic generation; • Obstruction of station to whole-sale buyers using trucks |
| Big C Super Center PCL | 17 July 2013 | <ul style="list-style-type: none"> • None |
| Bangkok Bank, Lat Phrao 44 Branch | 21 October 2013 | <ul style="list-style-type: none"> • Impact on customer access due to relocation • Need for compensation on expropriated land and structures. • Access from the station to the bank. |
| AEON (Thailand) Co., Ltd. | 6 November 2013 | <ul style="list-style-type: none"> • Access between the station and business establishment |
| National Government | | • |
| Samut Prakan Highway District, Department of Highways | 8 August 2013 | <ul style="list-style-type: none"> • Access between the station and office • Replacement of affected structure |
| Office of the Attorney General, Office of Provincial Summary Litigation 2 | 20 August 2013 | <ul style="list-style-type: none"> • Need to minimize land expropriation. |
| Office of Archaeology, Fine Arts Department | 2 September 2013 | <ul style="list-style-type: none"> • Potential impacts on archeological objects and sites; • Generation of noise and vibration |
| Medical Facility | | |
| Lat Phrao Hospital | 18 October 2013 | <ul style="list-style-type: none"> • Obstruction of exiting access to the hospital • Generation of noise, vibration and dust. • Need for information on station design |
| Local Government Unit | | |
| Director of Prawet District Office | 18 September 2013 | <ul style="list-style-type: none"> • Need to reduce land expropriation. • Transport of construction materials and equipment impact. • Need for advance notice on modification of traffic |
| Mayor of Samrong Nua Municipality | 20 September 2013 | <ul style="list-style-type: none"> • Coordination and advance notice on traffic modification • Need to mitigate flooding • Need to extend the line to cover more locations |
| Director of Wang Thonglang District | 20 September 2013 | <ul style="list-style-type: none"> • Disruption of water supply in project construction; • Need to manage traffic generation • What is the frequency of each train? • Fare amount. • Generation of noise and vibration |
| Public Works Subdivision, Bang Na District Office | 7 October 2013 | <ul style="list-style-type: none"> • Need to minimize land expropriation • Need to relocate Si Dan station for a sector of travelling public • Coordination and advance notice for traffic modification • Need for emergency walkway for evacuation |
| Multi-Stakeholders | | • |

| Group | Date of Meeting | Social Concerns Raised |
|---|---|--|
| Ratchada Forest Project | 20 August 2013 | <ul style="list-style-type: none"> • Management of traffic generation Phrao Road. |
| Prawet Community Board | 19 September 2013 | <ul style="list-style-type: none"> • Need for information on construction period |
| Public Hearing | | <ul style="list-style-type: none"> • |
| Community Public Hearing No. 1 Total participants: 337 | First meeting: 21 and 22 September 2013 | <ul style="list-style-type: none"> • Need for consultations on weekend for wider participation; • Need for information on expropriation, station location, construction schedule, conveniences to children, elderly, women and PWD . • Need for fund for people impacted • Fare amount |
| Community Public Hearing No. 2 Total participants: 353 | 26 October 2013 | <ul style="list-style-type: none"> • Management of traffic generated • Land expropriation procedure of residual land |

96. The consultations on affected assets has been conducted in the neighborhood and household level. The more discreet mode of the consultation done is due to the delicate nature of the subject matter. It involves information on high-valued properties, authenticity of property ownership, prominent family names, family conflicts and in many instances, huge amount of actual compensation. The documentation of the consultation meetings with affected households has restricted access.

97. Nonetheless, the minutes of the meeting among EBM, MRTA and BTS shows that the consultation and exchange of information between MRTA and affected property owner are a continuous process. An example of information that the property owner provided is its building plan while the project provided the detailed station plan. Both plans are used by the two parties to discuss options to locate the stations or its main features to maximize mutual benefit. The project has no direct engagement with civil society groups.

98. While meetings held at the community, neighborhood and household levels serve as venues to disclose and disseminate information, the project continues to use other media. Brochure are still distributed and videos are available in the MRTA website. Both information materials are available in Thai and English. The website also has also the documentation of public hearings, reports on the progress of work, results of the various studies and feedback page where stakeholders can express their opinions and recommendations. Information about the project is also disseminated through reports in print and broadcast media. Feedback was also obtained through a conduct of a questionnaire survey. The survey was undertaken among 1500 sample respondents representing the residents in the project route.

99. Information on land acquisition are also disclosed and disseminated through the activities required in the 1987 Immovable Property Expropriation Act and 1997 Act on Procurement of Immovable Property for Public Transportation Enterprises, 2540 (1997). These activities are as follows: (i) posting of the Royal Decree in public places and its promulgation in the Government Gazette (ii) survey of the conditions of the affected assets; (iii) announcement of the compensation rates set by the compensation through posts in public places; (iv) disclosure of the minutes of the meeting of the compensation committee; and (v) notifications to the property owners on the conduct of the survey, compensation rates and payment of compensation.

Chapter 7: Grievance mechanism

7.1 Formal Grievance Procedures

100. The 1987 Immovable Property Expropriation Act and the 1997 Act on Procurement of Immovable Property for Public Transportation Enterprises provide similar formal redress mechanism for two types of grievances. In the 1987 Immovable Property Expropriation Act, these grievances are the following: disagreement on the compensation set by the Compensation Committee (Sections 10 and 25); and (ii) need to expropriate unusable residual portion of a property after a portion is expropriated (Section 19 and 20). The steps to settle the first type of grievance per Section 25 and 26 of the 1987 law is described below:

- i. The complainant will send an appeal to the MOT Minister within 60 days from the date of receipt of written notice to collect the compensation;
- ii. The minister will form a committee to advise him on the complaint composed of five qualified members in the field of law and property appraisal;
- iii. The minister will send his decision to the complainant with 60 days from the receipt of the appeal;
- iv. If the complainant is dissatisfied with the minister's decision or the minister fails to deliver his decision within 60 days, the former can file a case in court. The prescribed period for filing is within one year from the date the decision is received or in the case of non-delivery of minister's decision, from the date of the prescribed period.
- v. If the Minister decides, or the Court rules, that additional compensation shall be paid, the complainant shall also be entitled to the interest of that additional compensation at the highest interest rate of the fixed-term account of the Government Saving Bank from the date that compensation has to be paid or deposited.

101. For the grievance on the need to expropriate residual portion of a property, the steps are as follows:

- i. The property owner sends a request to the expropriation officer to expropriate an unusable residual portion of a property;
- ii. If the officer rejects the request, the owner within 60 days as from the date he receives the written rejection, will send an appeal to the MOT Minister;
- iii. The Minister delivers the decision on the appeal within 60 days as from the date of the receipt of the appeal. If the decision is not delivered within this period, it decision is deemed favorable to the property owner.

7.2 Project Level Grievance Procedures

102. Through public information dissemination and consultation activities and individual meetings, affected property owners and tenants are informed on grievance redress procedures. This information is also contained in the pamphlets prepared and distributed by MRTA. The information at the back panel of the pamphlets include conditions and procedures for filing grievances (Table 29).

Table 29
Conditions and Procedures for Filing Grievances Contained in MRTA Pamphlets

| Conditions for filing grievances | Procedures for filing grievances |
|---|--|
| Provide details of grievances accompanied by documentation or photos showing damage. | Verification and registration of grievances. |
| Grievants must provide a name and location of grievances, and telephone numbers. | Prepare documentation for submission to administrators and inform concerned agencies to take necessary action. |
| Grievances must be for loss or damage resulting from construction or implementing project activities by officials. | Follow up on progress of resolving the grievance and inform results to the grievant. |
| If grievances have incomplete information or if information cannot be verified, investigations should be suspended and retained in a database. | |
| Source: MRTA Thai language pamphlets for AP regarding expropriation and encumbrances under the <i>Immovable Property Expropriation Act B.E. 2530 (A.D. 1987)</i> and the <i>Act on Procurement of Immovable Property for Public Transportation Enterprises, 2540 (1997)</i> . | |

103. The grievance redress procedures for each MRT project is posted on the MRTA website. The affected person can file a complaint using any of the three options: (i) submit the complaint during MRTA consultation; (ii) send a video clip to MRTA as an email attachment or through the MRTA website (http://www.mrta.co.th/th/comment/complaints_service/) or thru Yellow Line Project Facebook (<https://www.facebook.com/CRSTECONYL/>); and (iii) file a grievance in person at the MRTA office, where forms are available to facilitate the process and MRTA staff are available to assist.

104. But the chance that a grievance is filed is reduced by the informal negotiation. The MRTA Land Acquisition and Legal Affairs Departments manage the expropriation process and conduct informal negotiations with the property owners and tenants. The negotiations are based on the (i) results of the AP assets registration survey; (ii) results of the socio-economic survey of location conditions; and, (iii) compensation rates determined by the appraisal committee (preliminary price determination committee) appointed by the Minister. The appraisal committee includes representatives of the MRTA, BMA, Land Department, and concerned government agencies, and representatives of concerned district government, and a real estate specialist from the private sector. When the negotiation does not result to an agreed compensation rate, that the affected property owner can resort to the grievance redress mechanism.

105. During the project construction and operation phases, MRTA, contractors, and any entities providing construction and project management services are responsible for taking preventive and remedial action to address any actual or perceived environmental problems/issues related to the construction which caused or may cause environmental impacts or complaints and inform ONEP and other concerned agencies of such issues.

106. The Concessionaire will establish an Information and Complaints Center at the Project Office to receive information or complaints from the public and to publicize procedures for lodging complaints and communication channels, such as Call Center Numbers and E-mail Address. The center will provide staff throughout 24 hours to gather and process complaints and suggestions to solve problems. Such suggestions will be presented to MRTA once a month to help alleviate construction impacts to the general public.

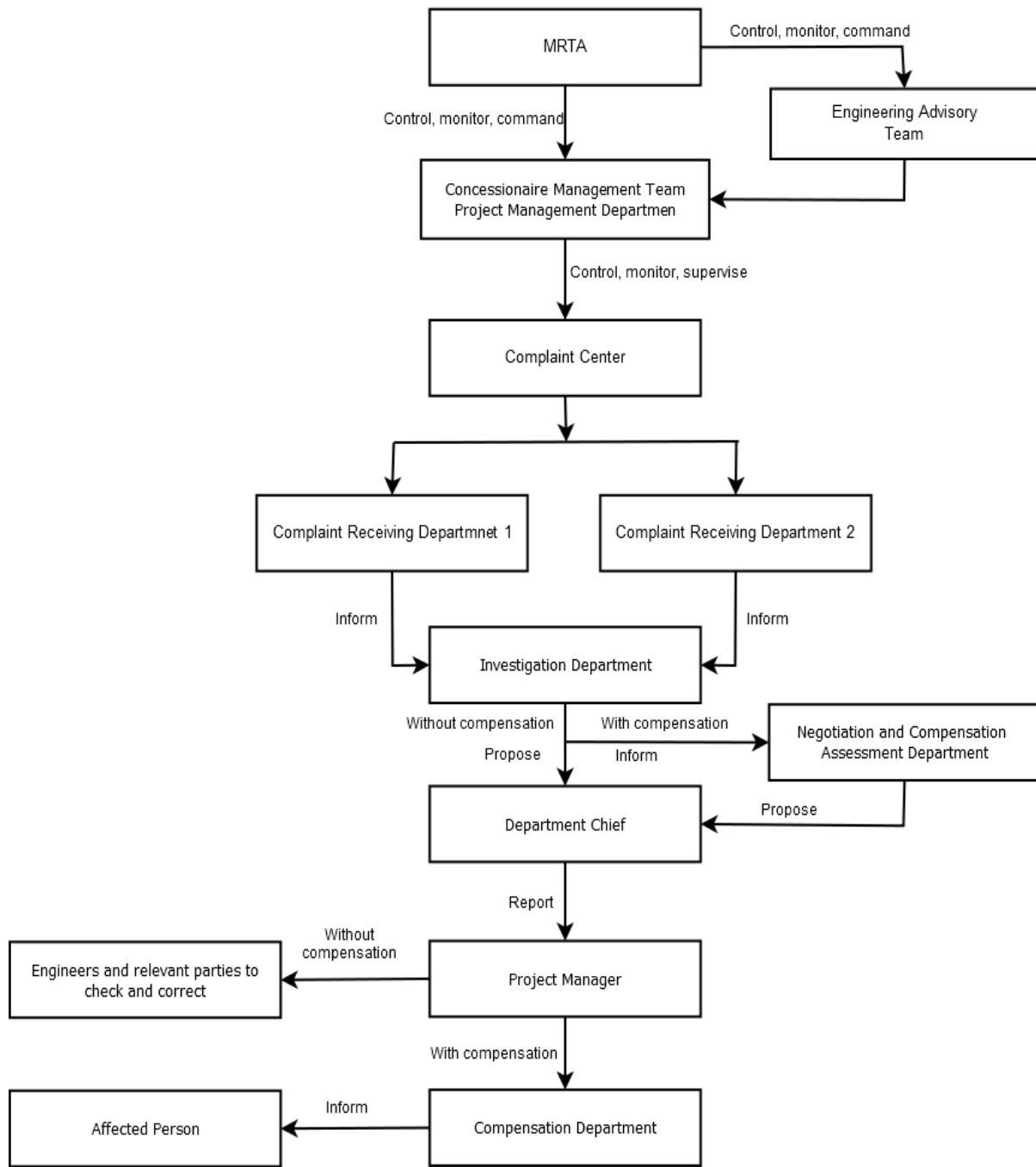
107. If there are complaints from existing business operators and/or residents along the construction areas, affected persons have to be allowed to express their opinions about resolving or alleviating the problem under the “public participation” principle based on rights specified in the Constitution of the Kingdom of Thailand, B.E. 2550 (2017).

108. The Information and Complaints Center’s Complaints Receiving Department will be responsible for receiving and recording complaints from the public. The Complaints Receiving Department will forward the complaints to the Investigation Department. Complaints will be investigated and analyzed to determine if the damage was caused by the construction work and, if it is, to assess the damage and find a solution or provide immediate assistance to affected persons. Complaints that may require compensation will be referred to the Negotiation and Compensation Department who will propose fair compensation to affected persons. The proposed solution and/or compensation will be forwarded to the Department Chief for action of the Project Manager or the Compensation Department.

109. Solutions to complaints that do not require compensation will be reported to the Project Manager for immediate action of engineers and other relevant parties. The contractor will assign relevant staff to investigate the damage and will be responsible for the rectifying the damage and will bear the cost of rectifying the damage. Complaints requiring compensation will be forwarded to the Compensation Department for immediate information and payment to the affected persons.

110. The steps and responsible parties for addressing complaints are presented in Chart 1.

Chart 1 Information and Complaints Management Structure



Source: Amended EIA Report for the Yellow Line MRT Project

Chapter 8: Institutional Arrangements for Land Acquisition and Compensation

8.1 Pre-construction Phase

111. **Project Planning.** The MRTA is lead organization in land acquisition and compensation process for the project. It was created under the Royal Decree on Establishment of the MRTA (2000) to operate the mass transit system in Bangkok and its vicinity as one of its functions. As a unit of the MOT, it is supervised by the Office of the Minister. It works with other units of the MOT in planning and implementing mass rapid transit projects. These units are the Department of Highways (DOH) and Office of Transport and Traffic Policy Planning (OTP) and its two state enterprises, State Railway of Thailand (SRT) and Expressway Authority of Thailand (EXAT). It also coordinates with other government agencies including the Bangkok Metropolitan Authority (BMA), Office of the National Environment Board (ONEB), Government Savings Bank (GSB), Ministry of Justice and the Provincial and District Offices.

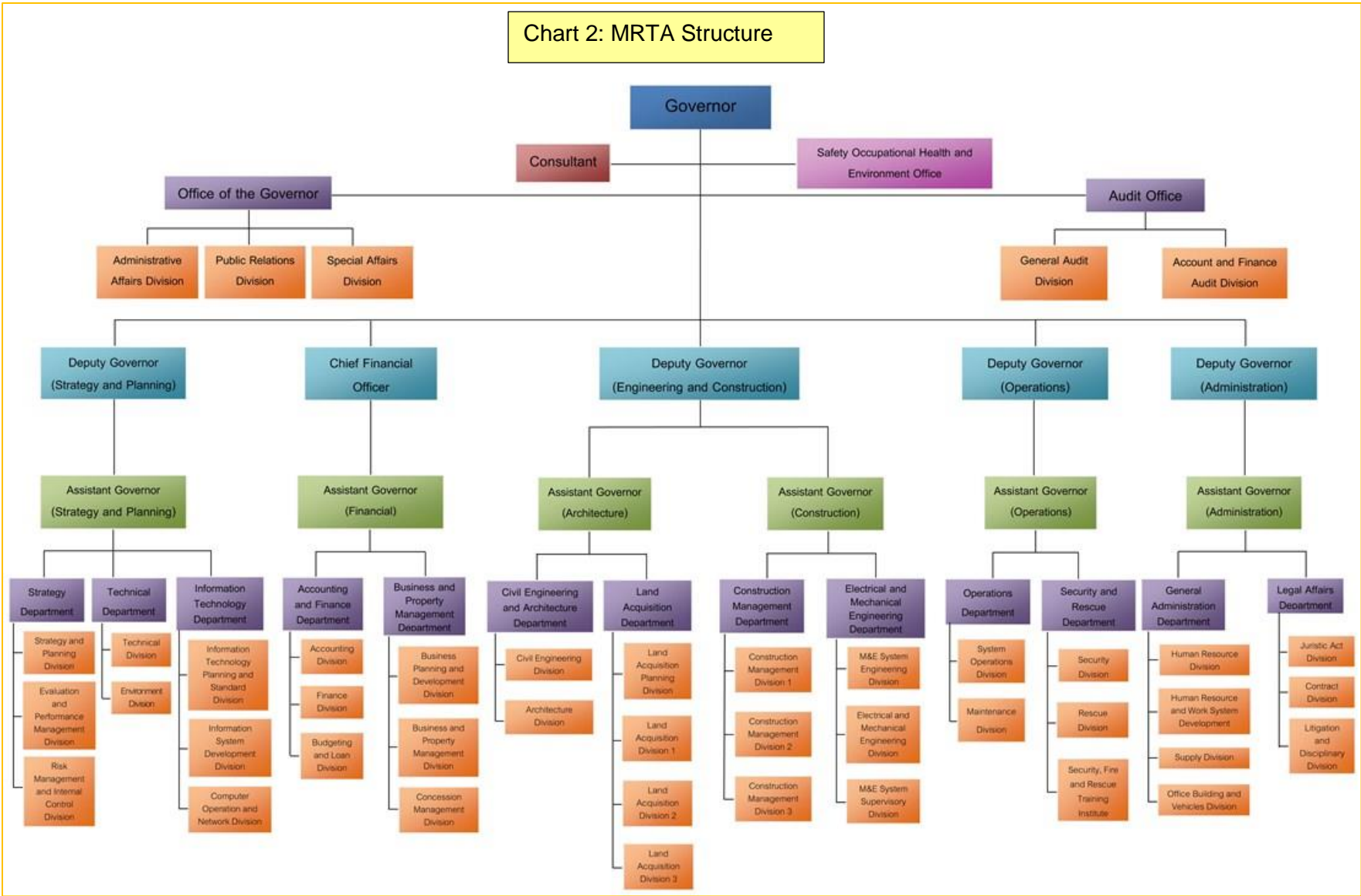
112. MRTA's involvement in land acquisition starts when it submits a MRT project plan to OTP for approval. The approved plan is submitted to Council of Ministers for another approval. Based on the approved plan, MRTA conducts a preliminary survey on land conditions of the project area including land ownership and non-movable assets. The MRTA's Civil Engineering and Architecture and Land Acquisition Departments collaborate to carry out this survey (Chart 2). The following provisions of the 1987 Immovable Property Expropriation Act and the 1997 Act on Procurement of Immovable Property for Public Transportation Enterprises govern the survey:

- Notification specifying the area to be surveyed in the preliminary survey is posed at local administration offices and public locations throughout the project area.
- Prior to entering in or on to private land for the survey, MRTA gives notice to the owner or occupant of the land at least 30 days in advance, specifying the date and time of the planned entry and stating any activity to be undertaken during the survey.
- After completing the survey, MRTA must return the land to its previous condition as much as possible.

113. **Decree Promulgation.** After the survey completion, MRTA Legal Affairs Department drafts a Royal Decree that specifies the right-of-way for the planned MRT line and area for expropriation. MRTA submits the draft decree to the MRTA governor and Transport Minister who in turn submit it to OTP for review. After the review, the draft Royal Decree is submitted to the Council of Ministers approval and for enactment by the King. The Royal Decree is effective upon being published in the Government Gazette and the date of issuance serves as the cut-off-date for properties eligible for entitlements. MRTA's Legal Affairs Department subsequently disseminates the Royal Decree by posting it in public places specified in the 1987 Immovable Property Expropriation Act (section 7) and the 1997 Act on Procurement of Immovable Property for Public Transportation Enterprises (Section 9).

114. The Royal Decree designates the Transport Minister as responsible for executing the Royal Decree. Following announcement of the Royal Decree, the MRTA Land Acquisition Department will gather information on the affected properties based on the map attached to the Royal Decree.

Chart 2: MRTA Structure



115. **EIA Preparation and Approval.** Land acquisition as an impact is covered by the EIA. The MRTA, as the project proponent, is responsible for preparing an EIA document. An EIA is prepared as early as possible in the project cycle, preferably in conjunction with the conduct of the feasibility study to incorporate its mitigating measures in the design. The MRTA engages a consulting firm to prepare the EIA and coordinates with the Office of Natural Resources and Environmental Policy and Planning (ONEPP) which is administrating the country's EIA process. Within MRTA, the Environment Division of the Technical Department works with consulting firm in conducting the various studies to complete the EIA document. The completed EIA document is submitted to the ONEPP and reviewed by an Expert Review Committee. The Council of Ministers, upon the recommendation of the National Environment Board (NEB) gives the final approval of the EIA because the proponent is a state enterprise.

116. **Compensation Determination.** Within 30 days after the MRTA's Civil Engineering and Architecture and Land Acquisition Departments surveyed the land for expropriation, MRTA proposes to the Minister to appoint an Appraisal Committee. Its task is to estimate the prices of immovable property to be expropriated and the amount of compensation to be paid. For the Yellow Line Project, the MRTA representative serves as the chair. The members are the representatives of the Bangkok City Council, district councils, Land Department, Department of Local Administration and the community representative.

117. **Information Dissemination, Negotiation and Payment.** Compensation rates established by the appraisal committee are disseminated throughout the project area. The MRTA Legal Affairs and Land Acquisition Departments post the rates in locations designated by the 1987 Immovable Property Expropriation Act (Sections 7 and 9). Both departments also negotiate the purchase agreements with owners or legal occupants of immovable property. The MRTA Accounting and Finance Department is the one that pays compensation within 120 days of signing the agreement. The MRTA Concession Division and Legal Affairs and Land Acquisition Departments collaborate to process legal documents to acquire land that becomes part of the land concession for the MRT project.

118. Where the affected household disagree with the amount of compensation or fails to come forward to receive the compensation within the prescribed period, the MRTA Accounting and Finance Department deposits the compensation with the GSB or a government bank in an escrow account. The MRTA Legal Affairs or Business and Property Management Department publishes the notification of the deposit in a daily newspaper distributed in the project area.

119. **Monitoring and Reporting on Land Acquisition and Compensation Activities.** The land acquisition and compensation process are monitored through the monthly meetings among MRTA, BTS and MBN.²⁷ In these meetings, the progress of the land acquisition process are reported and issues are identified. Solutions to the issues are agreed upon including conduct of investigation, consultation and exchange of information with the potential affected person and redesign of parts of the project such as the station and placement of the viaduct. In every meeting, the status of the issues raised in the preceding meeting and solutions agreed are revisited and, if needed, additional actions are again agreed upon. The minutes of the meeting are circulated among the attendants for confirmation. Any additional expropriation of land as a result of unanticipated project impacts will be undertaken by MRTA following the Thai legal framework, MOT Compensation Manual and MRTA practices. An external social monitor will be appointed to obtain updates from MRTA which will be included in the semi-annual monitoring reports to ADB.

²⁷ Minutes of the Meeting on 24 November 2017 as Approved on 19 December 2017

8.2 Construction Phase Supervision

120. After MRTA acquires the land, it is handed over to BSR free of encumbrances. MRTA, directly engages a project construction supervision and management consultant (PSCMC, i.e. PCYL for the Yellow Line) to provide construction supervision and management services during the construction phase.²⁸ The MRTA monitors and oversee the consultant and the concessionaire to ensure compliance to the environmental requirements specified in the EIA Addendum Report. Further, the MRTA appoints a committee to control and supervise the concessionaire on its compliance with environmental mitigation, protection and monitoring measures consistent with the EIA Addendum Report. The engagement of a project supervision and management consultant and the appoint of a committee are followed in the EMP (7 November 2017) through the following provisions in Section 2.1.1

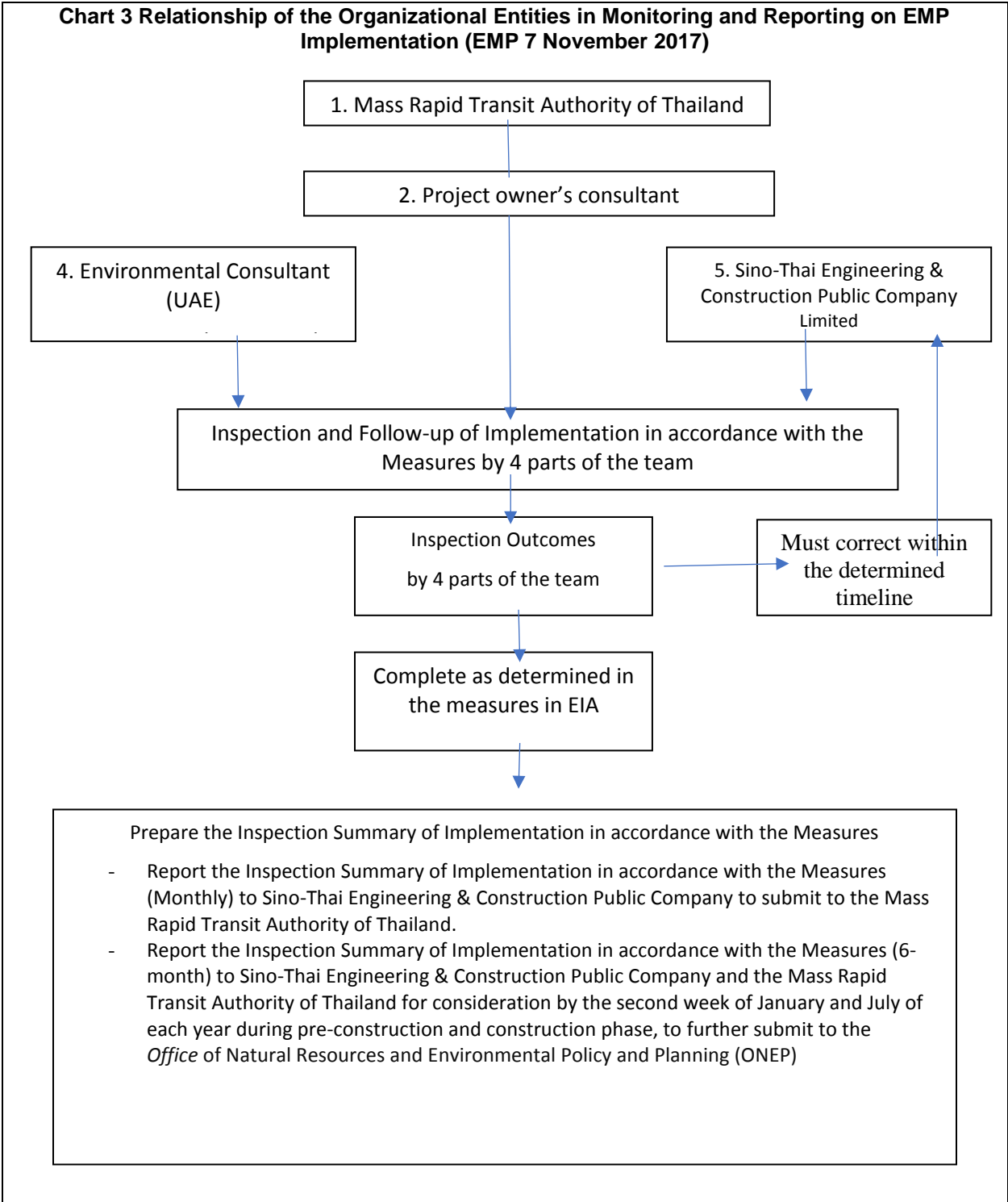
- i. Monitor and supervise the design contractor and/or the construction and administration contractor to comply with the Environmental Impact Prevention, Correction, and Elimination Measures and the Environmental Impact Inspection Follow-up Measures as presented in the MRT Yellow Line Project's Environmental Impact Assessment
- ii. Recruit third party to follow up the inspection of the implementation in accordance with the Environmental Impact Prevention, Correction, and Elimination Measures and the Environmental Impact Inspection Follow-up Measures as presented in the report, by setting total budget as part of the expenses related to the MRT Yellow Line Project, under the supervision of the Mass Rapid Transit Authority of Thailand (MRTA), and designate the Committee to follow up the Inspection and the Implementation of the Environmental Measures, consisting of the *Office* of Natural Resources and Environmental Policy and Planning, the State Railway of Thailand, the Highways Department, the Pollution Control Department, Nonthaburi Province, Bangkok Metropolitan, the Office of the Consumer Protection Board, private development organizations, experts, etc., to monitor and follow up the environmental measure compliance for the entire project

121. Monitoring activities consists of the following activities: (i) monthly monitoring and inspection by a representative of the committee; (ii) random inspection at night by the committee's representative; and (iii) periodic inspection by the committee as deemed appropriate. In case of complaints on environmental problems, the concessionaire is required to carry out remedial action without delay and at its own expense. These problems include damage incurred on private assets during construction. The steps in conduct in the monitoring inspection and reporting based on the EMP (7 November 2017) is in Table 30. The relationship among entities involved in monitoring and inspection is shown in Chart 3.

²⁸ MRTA's Requirements: Part 1 Civil Works: Appendix 5: Environmental Protection Requirements: Section 9 i

Table 30
Steps in the Conduct of Monitoring Inspection and Reporting According to EMP (7 November 2017)

- (i) Organize a joint meeting of the inspector team members, including consulting company, contractor, project owner, and project owner's consultant in order to inform of key purpose of implementing the measures and its contents that determine inspection processes.
- (ii) Jointly inspect the construction areas of actual implementation based on the measures in terms of potential impacts from implementing activities, as well as vulnerable points determined in the measures. During the inspection, the team is required to inquire details from the workers to know problems and, if the implementation cannot be performed or can be partially performed, the limitations must be addressed to support the proposal of recommendations to solve problems or to correct the implementation on the basis of reasonable academic theories.
- (iii) Record inspection outcomes during the inspection by using the prescribed Inspection Report Form for the Implementation in accordance with the Measures.
- (iv) At the end of each inspection, assess and summarize the inspection outcomes for contractor and project owner's information and, if there is any urgent environmental impacts, such as damaged road that may cause accidents, requiring prevention/solution, UAE must provide immediate guidelines to solve and to cease impacts first before proposing long-term solutions to eliminate the impacts further. In this regard, the summary needs to provide details with supporting pictures to create clear understanding on inspected issues.
- (v) Prepare inspection summary and provide to contractor and project owner for their reference within 5 days from the day of inspection.
- (vi) Prepare inspection summary and provide to contractor and project owner copies for their review and consideration by:
 - (a) submitting the Inspection Summary of Implementation in accordance with the Environmental Impact Prevention and Correction Measures and the Environmental Impact Inspection Follow-up Measures for pre-construction period within 30 days from the last days of inspection follow-up of pre-construction environmental impacts to Sino-Thai Engineering & Construction Public Company Limited in order to further submit to the Mass Rapid Transit Authority of Thailand (MRTA) (6 sets of summary in Thai language);
 - (b) submitting monthly the Inspection Summary of Implementation in accordance with the Environmental Impact Prevention and Correction Measures and the Environmental Impact Inspection Follow-up Measures within 30 days from the last days of inspection follow-up of pre-construction environmental impacts to Sino-Thai Engineering & Construction Public Company Limited in order to further submit to the Mass Rapid Transit Authority of Thailand (MRTA) (6 sets of summary in Thai language); and
 - (c) submitting the Inspection Summary of Implementation in accordance with the Environmental Impact Prevention and Correction Measures and the Environmental Impact Inspection Follow-up Measures in accordance with conditions to submit report every 6 months (in January and July of every year during pre-construction phase and construction phase) to Sino-Thai Engineering & Construction Public Company Limited in order to further submit to the Mass Rapid Transit Authority of Thailand (MRTA) and the Office of Natural Resources and Environmental Policy and Planning (6 sets of summary in Thai language).



122. Apart from MRTA, other government agencies will also monitor the project on aspects within their legal mandate. These agencies are the Department of Labor Protection of the Ministry of Labor, ONEP of the Ministry of Natural Resources and Environment; BMA and concerned provincial and district offices.

Chapter 9: Implementation Schedule and Budget

123. The Yellow Line Project is scheduled to operate in 2022. The land acquisition process started with the issuance of the Royal Decree on 28 December 2015. As of February 2018, agreements were signed and compensation paid for 59.77% of land being acquired for the Yellow Line. The total construction cost is estimated at 55 Billion THB. The status of land acquisition and resettlement activities undertaken by MRTA is provided in Chart 4. Compensation payments are expected to be completed by July 2018.

Chart 4. Status of land acquisition and resettlement activities undertaken by MRTA

(This information has been removed as it falls within the exceptions to disclosure specified in para 97(v) of ADB's Public Communication Policy)

Chapter 10: Conclusions and Recommendations

124. The audit finds that the land acquisition and compensation process followed the provisions of Thai laws and the MOT manual. During EIA preparation, MRTA requires the EIA preparer to assess the land acquisition and resettlement impacts and calculate the budget required, discloses information on project impacts, explain the land acquisition process and eligibilities of affected people. Following the approval of the EIA by the NEB, a decree is issued and the detailed resettlement planning and implementation process which follows are consistent with ADB requirements. MRTA has taken due care to assess the nature and scope of impacts on each affected property; conducted a census and full asset inventory, and disclosed information on impacts, entitlements and compensation to affected people. Compensation standards and methodology for valuating land have been validated.

125. The audit also shows that MRTA's practices on land acquisition and resettlement for the Yellow Line are in line with ADB's SPS SR2 on Involuntary Resettlement. MRTA land acquisition process is aligned with the following ADB requirements: (i) survey or census of displaced persons specifically related to resettlement impacts; (ii) conduct of meaningful consultation; (iii) disclosure of information to displaced persons on their entitlement and options; (iv) grievance redress mechanism; (v) assistance provision of displaced persons; (vi) improvement of living standards of vulnerable groups; (vii) non-land compensation and assistance to those without land titles; (viii) compensation payment before displacement; and (ix) monitoring of resettlement outcomes. The comparison between these provisions and practices with ADB's requirements shows that the gaps are in negotiated settlement procedures and attention to vulnerable groups in consultation. But both requirements are not applicable to the Yellow Line Project. With all private lands under expropriation, there will be no negotiated settlement. On the attention to vulnerable groups in consultation, the result of pre-construction survey identified that no affected household is living below the country's poverty line who can be considered vulnerable.

126. With respect to SR2 policy principles, such as the need to avoid and/or minimize impacts, for example, the audit shows that the Yellow Line project implemented measures to reduce land acquisition through technology selection, station location and modification of station design. The result is the reduction of the area for land acquisition from 24.10 hectares in October 2015 to 21.85 hectares in October 2017.

127. Where the audit found sufficient information to be able to compare the market prices for the land being acquired, the audit finds that compensation offers issued by MRTA for affected assets are equivalent to or above the market rate and therefore adheres to Thai legal requirements. *(This information has been removed as it falls within the exceptions to disclosure specified in para 97(v) of ADB's Public Communication Policy)*

128. In addition to compensation rates at market rates, MRTA also covers administrative or transaction costs, among other assistance which aligns MRTA practices with ADB SPS SRS2 requirements for compensation at replacement cost. Where there are MRTA land price offers lower than the internet advertised prices or with real estate appraisal company's valuation or both, this is likely due several reasons (i) internet advertised asking prices most likely shows the price of land and structures given that the Project area is in a heavily built urban metropolis, (ii) the parcel's peculiarities – shape of land or the distance of the parcel from the area referenced in the real estate appraisal company's valuation; (iii) lack of data on sales of land in the vicinity. Nevertheless, MRTA has a robust grievance mechanism where the affected household can file as case in the grievance mechanism. If it is deemed the prices paid is unfair to the affected person,

the law provides that the minister with the approval of the Council of Ministers can order the Compensation Committee to reappraise the prices and reset the compensation rates.

129. In terms of compensation for other assets, namely structures, crops and trees, MRTA attests that these are being paid following Thai laws, the MoT Compensation Manual and MRTA practices. The audit also finds that affected property owners can easily obtain the price of building materials from the Bureau of Trade and Economic Indices, Office of Permanent Secretary of Ministry of Commerce, or Provincial Commercial Office. They can also get the labor cost from the Budget Standard Bureau, Bureau of the Budget and from the Ministry of Labor. For trees, the price estimate are in the Provincial Agricultural Extension Office. Hence, affected people can readily check the computation, and negotiate for a fair price through the grievance mechanism.

130. Compensation offers for structures, other fixed assets, and lost income due to business disruption is following Thai laws. This audit these consistent with ADB SPS requirement to replace lost fixed assets and income. Where there are any grievances on structure compensation, those affected can easily validate this due to access to information. Those with affected structures can easily obtain the price of building materials from the Bureau of Trade and Economic Indices, Office of Permanent Secretary of Ministry of Commerce, or Provincial Commercial Office. They can also get the labor cost from the Budget Standard Bureau, Bureau of the Budget and from the Ministry of Labor. For trees, the price estimate are available at the Provincial Agricultural Extension Office. To check the computation, the affected person can refer to the MOT Manual of Compensation which is readily available.

131. Moreover, if the affected person is still dissatisfied with the compensation, the MRTA receives written complaints. The minutes of Monthly meetings between BTS, EBM and MRTA shows that complaints are referred to EBM for solution even before it is formally sent to the Minister which is the first step in the formal grievance redress process. There are examples of EBM resolving these complaints by accommodating the need of the complainant whenever it is technically feasible. If the complaint will proceed to the office of the Minister, the procedures are in place. If it will proceed further to the court, it will be heard in the Administrative Court, which is considered independent and impartial.²⁹

132. Based on the replacement value of the amount of compensation for lost income, payment for various transfer costs, duration of monthly compensation payment and time required to establish a new business in Thailand, it is seen that the MRTA arrangement would suffice to restore livelihood of affected person.

133. With respect to monitoring and reporting, MRTA requires monthly and semi-annual external monitoring of the Environmental Management Plan. However, this does not cover progress of land acquisition and resettlement. These are monitored by MRTA separately. ADB proposes to engage an independent social monitor to work with MRTA to prepare reports semi-annually of the progress of land acquisition and resettlement for the Project upto completion

134. MRTA has been continuously negotiating with affected people and provided information demonstrating a functional grievance mechanism which is responsive to people's concerns through various changes made in Project specifications in order to accommodate requests and

²⁹ Werachon P. and W Werachon. Eminent Domain Expropriation of Land. <http://pattayatoday.net/property-business/legal-advice/eminant-domain-expropriation-of-land/>

minimize impacts to properties. This audit concludes that the reputational risk to ADB and risks to the Project of MRTA-led land acquisition and compensation activities is low.

Appendices

Appendix 1

A. Identified Affected Assets in the Site Reconnaissance on 17-20 October and 7-13 November 2017

| Station | Affected Private Land and Structures (Proceeding from Station 23: Samrong to Station 1: Ratchada) |
|------------------|--|
| 1: Ratchada | Land: Land around the Park & Ride Building of Blue Line and land along Ratchadapisek Road: Vacant land of SRT; land around vacant building on Ratchadapisek Road belongs to MRTA; land around an orange building will be expropriated – 200 m. (L) x 10 m. (W) Structure: Vacant building on Ratchadapisek Road; parking area around orange building |
| 2: Phawana | Land: On left side: 10 m. (L) x 15 m. (W) Structure: On left side: tree and garden impacted but MRTA relocated service steps to reduce impact; bank carpark impacted; On right side: 3 units of purple building impacted; 4 units starting with yellow building impacted |
| 3: Chokchai 4 | Land: On left side: buildings land 20 m. (L) x 15 m. (W) will be expropriated; On right side: buildings and trees/ garden impacted on land 20 m. (L) x 10 m. (W) Structure: On left side: ½ of barbershop and pawnshop will be expropriated; food shop (near intersection) impacted; On right side: 2 units of building and right side of 7-11 impacted; blue building up to police station impacted; trees/garden of police office impacted |
| 4: Lat Phrao 71 | Land: On left side: Ajyara Planet parking lot expropriated; on right side: On right side: entrance to empty lot with trees along Soi 69 will be impacted Structure: On left side: 7-11 convenience store and all units behind the store will be expropriated; On right side: Abandon building up to blue sign (7 units) will be expropriated |
| 5: Lat Phrao 83 | Land: On left side: land 12 m. (L) x 15 m. (W) expropriated; Right side: parking lot of restaurant impacted Structure: On left side: Brown building expropriated and part of Toyota showroom, 8 m. (L) x 15 m. (W); On right side brown building expropriated, 15 m. (L) x 12 m. (W); building next to restaurant parking lot impacted |
| 6: Mahat Thai | Land: On left side: Empty space across from hospital will be expropriated, 10 m. (L) x 12 m. (W); Volvo showroom area expropriated, 15 m. (L) x 10 m. (W); On right side: Hospital parking lot impacted, 30 m. (L) x 4 m. (W); Foodland parking lot expropriated, 30 m. (L) x 6 m. (W) Structure: On left side: Volvo showroom will be impacted; On right side: Volvo showroom and Foodland supermarket parking areas will be expropriated |
| 7: Lat Phrao 101 | Land: Structure: On left side: old, unused building impacted; On right side: 2 units of a commercial building impacted |
| 8: Bangkapi | Land: 15 m. (L) x 20 m. (W) on left side; market area also impacted; On right side: garden of Aspire Condominium impacted; tree/garden area of Kenwood apartments impacted. Structure: On left side: vendors in market are will need to be moved back; entire outdoor coffee shop will be impacted, 15 m. (W) x 15 m. (L); On right side: 2 units in middle of a commercial building impacted; the building has already been impacted by construction of Orange Line underground station; existing canal used by passenger boats may be impacted; At Kenwood: 2 units of a building behind the tree will be impacted, 20 m. (W) x 12 m. (L) |
| 9: Lam Sali | Land: On left side, BMA garden land impacted Structure: On left side: BMA trees impacted; On right side: Thai bank impacted; 2 units within a commercial building impacted |
| 10: SiKritha | Land: On left side: Vacant land impacted, 15 m. (L) x 10 m. (W); construction site impacted; On right side: Land and building to be impacted 20 m. (L) x 12 m. (W) Structure: On right side: Building housing Super Cars expropriated; Deep Crystal Coating shop impacted, 12 m. (L) x 20 m. (W) |
| 11: Phatthanakan | Land: On left side: Vendors on railway land impacted (15 m. (L) x 20 m. (W)). |

| Station | Affected Private Land and Structures (Proceeding from Station 23: Samrong to Station 1: Ratchada) |
|------------------------------------|--|
| | Structure: On left side: Vendors observed in October 2017 had mostly dismantled their booths by November 2017. |
| 12: Kalantan | Land: On left side: After Florence Club, vacant land corridor exists at the back of a building with trees that will be expropriated; On right side: A small triangle of parking area of PHB Auto will be impacted. A taxi stand area will be impacted, 15 m. (L) 15 m. (W). Structure: On left side: Encroachers along a public canal were observed in October 2017 but had been relocated and not observed in November 2017. Auto Villa parking area will be impacted. On right side: Taxi stand will be impacted. |
| 13: SiNut | Land: On left side there is an open green area corridor behind the frontage about 6-7 m. wide that will be expropriated for the staircase. On right side, 20 m. (W) x 12 m. (L) will be expropriated; Structure: On right side: whole gas station to be expropriated in addition to Epson Service center and car repair shop. |
| 14: Srinagarindra 38 | Land: 15 m. (L) x 7-8 m. (W) impacted on left side Structure: Part of showroom impacted on left side; car showroom and carport in commercial area impacted on right side. |
| 15: Suan Luang Rama IX | Land: 10 m. (W) x 15 m. (L) impacted on left side; garden land impacted on right side Structure: Car dealership and 7-11 convenience store will be impacted on left side; gardens and Yokohama and Dunlop tire shop impacted on right side |
| 16: SiUdom | Land: Expropriate 15 m. (W) on left side Structure: Honda showroom parking lot impacted on left side; awnings on blue and yellow buildings will be removed on right side |
| 17: Silam (Depot & Park & Ride) | Land: Expropriate 700 m. x 7-8 m. of land from end of footpath to accommodate a rail line curve; depot to be constructed on vacant land (abandoned housing estate) Structure: |
| 18: SiLaSalle | Land: 8 m. (L) x 8 m. (W) on left and 10 m. (L) x 20 m. (W) on right side to be used for staircase; an entire vacant concrete triangle area to be impacted/acquired Structure: An existing set of stairs will be impacted |
| 19: SiBearing | Land: 12 m. (L) x 19-20 m. (W) on left side; same on right side; 3 of 5 units of rowhouse building affected Structure: Stairs impacts Kawasaki showroom area |
| 20: SiDan | Land: 12 m. (W) on left side; 8 m. (W) and 15 m. (L) on right side will be expropriated Structure: |
| 21: SiThepha | Land: 15 m. x 15 m. expropriated on right side of road Structure: Affected shops to be compensated; market to be affected |
| 22: Thippawan | Land: 12 m. (W) on left; 20 m. (W) x 15 m. (L) on right side to avoid having to move electric poles Structure: Banana garden impacted |
| 23: Samrong | Land: 12 m. (L) x 15 m. (W) acquired on left side of the road; and, 20 m. ROW on right side will be acquired Structure: Mobile vendors in a public area will be temporarily affected and can continue to operate during construction and operations |

B. Site Visit Notes and Photos – Yellow Line - October 2017 (Updated Nov 2017)

(This information has been removed as it falls within the exceptions to disclosure specified in para 97(v) of ADB's Public Communication Policy)

Appendix 2 Land Prices Gathered from Internet Advertisements by Location

(This information has been removed as it falls within the exceptions to disclosure specified in para 97(v) of ADB's Public Communication Policy)

Appendix 3

Results of Assessment of Average MRTA Land Prices

(This information has been removed as it falls within the exceptions to disclosure specified in para 97(v) of ADB's Public Communication Policy)

Appendix 4

Clusters of stations and breakdown of participants in Two Public Hearings

| Date & total participants | Clusters of stations | Participants from each cluster | Participant breakdown Type | No. | |
|---|---------------------------------|---------------------------------|-------------------------------|----------------|----|
| First meeting: 21 and 22 September 2013 Total participants: 337 | Cluster 1: | | AP: Samut Prakan Municipality | 51 | |
| | Samrong, Thippawan, Si | | AP: Bang Na | 7 | |
| | Thepha, Si Dan, Si Bearing, Si | 74 | Academics | 1 | |
| | LaSalle, Si lam | | Officials | 1 | |
| | | | Consultants | 11 | |
| | | | MRTA | 3 | |
| | | Cluster 2: | | AP: Suan Luang | 32 |
| | | Si Udom, Suan Luang Rama IX, | 80 | AP: Prawet | 32 |
| | | Srinagarindra 38, Si Nut, | | Private sector | 2 |
| | | Kalantan, Phatthanakan | Consultants | 11 | |
| | | | MRTA | 3 | |
| | | Cluster 3: | | AP: Bangkok | 75 |
| | | Si Kritha, Lam Sali, Bang Kapi, | 91 | Consultants | 9 |
| | | Lat Phrao 101 | | MRTA | 3 |
| | Cluster 4: | | AP: Huay Khuang | 14 | |
| | Mahat Thai, Lat Phrao 83, Lat | 92 | AP: Wang Thong Luang | 54 | |
| | Phrao 71, Chok Chai 4, | | AP: Chatujak | 11 | |
| | Phawana, Ratchada | Officials | 1 | | |
| | | Consultants | 7 | | |
| | | MRTA | 5 | | |
| 26 October 2013 | Cluster 1: | | | | |
| Total participants: 353 | Samrong, Thippawan, Si | 96 | | | |
| | Thepha, Si Dan, Si Bearing, Si | | | | |
| | LaSalle, Si lam | | | | |
| | Cluster 2: | | | | |
| | Si Udom, Suan Luang Rama IX, | 87 | | | |
| | Srinagarindra 38, Si Nut, | | | | |
| | Kalantan, Phatthanakan | | | | |
| | Cluster 3: | | | | |
| | Si Kritha, Lam Sali, Bang Kapi, | 65 | | | |
| | Lat Phrao 101 | | | | |
| Cluster 4: | | | | | |
| Mahat Thai, Lat Phrao 83, Lat | 105 | | | | |
| Phrao 71, Chok Chai 4, | | | | | |
| Phawana, Ratchada | | | | | |

No breakdown of participants is provided in the EIA

Appendix 5

Consultations Done for EIA Preparation and Social Concerns Raised

| No | Type of Stakeholder | Group | Date of Meeting | Social Concerns Raised |
|----|-------------------------|------------------------------------|-----------------|--|
| 1 | Business establishments | Seacon Square Department Store | 10 May 2013 | <ul style="list-style-type: none"> • When will the construction be completed? • Will the consultant meet with all department stores along the project route? • Will this project facilitate to the private sector? • The company has space at the back of the shopping center. In the future, if continue development, will it be possible to use the area for a station's location. • What actions should the company take to get MRTA to facilitate customer access to the mall from the station? • Who is the decision maker on the location of the station? • Seacon Square Department Store feared its parking area will be used by train users not shoppers at the mall. • If the station is located at Seacon Square Department Store, Are there limits on the size and mass transit fares, within the framework of the law? • Will construction budgets be a problem, if the station is around Seacon Square? |
| | | Thanya Shopping Park Srinagarindra | 17 May 2013 | <ul style="list-style-type: none"> • The station should be north of the shopping mall. • There should be space for taxis and vans to park; at least 60 - 70 cars. • ITF is required for parking of shuttle buses. • Safety considerations: The station must have a fire escape and safety systems. • Determine the proper location, which floor the station will be located and a clear ascent – descent area. • Fire safety evacuation plan. |
| | | Lat Phrao Plaza Co., Ltd. | 5 June 2013 | <p><u>Questions:</u></p> <ul style="list-style-type: none"> • How is the location of the station determined? • How many sq. m. for station construction and train rails? • When is the exact project construction phase? • During the station construction phase, traffic congestion may be a problem. What is the solution? |

| No | Type of Stakeholder | Group | Date of Meeting | Social Concerns Raised |
|----|---------------------|-------------------------------|-----------------|--|
| | | | | <ul style="list-style-type: none"> Why not build the station at Lat Phrao Plaza Co., Ltd., mostly it will build with large enterprises? <p><u>Comments/Suggestions:</u></p> <ul style="list-style-type: none"> Agree on the Yellow Line Project but worry about the traffic problem during project construction. Should be informed of the timing of construction and completion. Lat Phrao Plaza is interested in a parking building for mutual benefit with MRTA. Wants to discuss the design for aesthetics and cooperation in development. |
| | | Paradise Park Shopping Center | 17 June 2013 | <ul style="list-style-type: none"> Want to have a station between Seacon Square and Paradise Park Mall; should be at Suan Luang Ror. 9 to comply with the station's name Suan Luang Ror. 9. Ascent - descent of the station should be extended to Mall areas. The roof covers a long corridor to Suan Luang Ror. 9 to facilitate public to walk up to Suan Luang Ror. 9 (a public park). Each mall should reserve some space for a parking for passengers (ascent-descent) at Suan Luang Ror. 9. Want to have access to the Mall same as Center One at Victory Monument. |
| | | Siam Makro PCL | 11 July 2013 | <ul style="list-style-type: none"> Agree on the Yellow Line Project. Concerned about traffic jams during construction. Expect business to be affected during construction on Lat Phrao Road. Siam Makro PCL customers are entrepreneurs buying goods wholesale; not retail shoppers. Most use pick-ups or trucks to transport goods. If train station located in front of the mall, Siam Makro benefits little. The project will be presented to the Management Committee to consider and to achieve mutual benefits with MRTA. |
| | | Big C Super Center PCL | 17 July 2013 | <ul style="list-style-type: none"> Agree on the Yellow Line Mass Transit Project to alleviate traffic on Srinagarindra Road. Big C Super Center PCL. Srinagarindra would consider a long-term joint venture with MRTA. Big C Super Center PCL representatives will present Yellow Line Project to the |

| No | Type of Stakeholder | Group | Date of Meeting | Social Concerns Raised |
|----|--------------------------|-----------------------------------|-----------------|--|
| | | | | Executive Committee for further consideration. |
| | | Bangkok Bank, Lat Phrao 44 Branch | 21 October 2013 | <ul style="list-style-type: none"> The entrance–exit of Phawana station located in the area of Bangkok Bank, Lat Phrao 44 Branch will require the bank to relocate; affecting local customers and relocation of safes. Requested a plan of entrance–exit of Phawana station to present to Bank executives for consideration and seeking concepts for benefit sharing with MRTA. Proposed expropriation of part of the bank's area required for the station entrance–exit; and, pay compensation for land expropriation and the expropriated building. (No need to pay for building modifications). Proposed expropriation of land, including banks buildings, then the bank will lease MRTA's land for future banking operations. Proposed the bank be allowed to use MRTA land; MRTA will sign a MOU for building an entrance– exit for the bank. Propose to build entrance–exit directly into the bank from the station. |
| | | AEON (Thailand) Co., Ltd. | 6 November 2013 | <ul style="list-style-type: none"> AEON agreed with Yellow Line Project to develop the Phatthanakan station; the Maxvalue Phatthanakan parking lot for ascent– descent of the station and the Park and Ride Building; and, is willing to co-develop with MRTA. Currently, an area of AEON is a lease with a contract for about 15 years and AEON has the policy to develop both a supermarket and shopping mall. In a related project, this could be developed in collaboration with MRTA. Then the AEON (Thailand) Co., Ltd. will present the Yellow Line Project to the board of directors of AEON (Japan) Co., Ltd. for consideration. Proposed to re-align the red line of the construction of entrance–exit of the station at the area of Maxvalue Phatthanakan to give an entrance–exit to McDonald's Max Value branch. |
| 2 | National government unit | Samut Prakan Highway District, | 8 August 2013 | <ul style="list-style-type: none"> Agree on the Yellow Line Project with the monorail system. Regarding use of Samut Prakan Highway District area for construction of |

| No | Type of Stakeholder | Group | Date of Meeting | Social Concerns Raised |
|----|-------------------------|---|------------------|---|
| | | Department of Highways | | <p>Depot and Park and Ride building: the office agrees in principle. Requires coordination with the Legal Division and a letter of request to use land to the DG of Department of Highways.</p> <ul style="list-style-type: none"> • If the Yellow Line project needs to expropriate the f Samut Prakan Highway District office building, it is proposed to replace the building with a new building opposite the current office and have a bridge connecting the new office to the train line. • The project route at the section of Srinagarindra Road and Thepharak Road was experiencing frequent flooding, so drainage should be considered. |
| | | Office of the Attorney General, Office of Provincial Summary Litigation 2 | 20 August 2013 | <ul style="list-style-type: none"> • Agree on the Yellow Line Project with the monorail system. • Agree with location of entrance of Samrong station being in empty space and at the old number 2 bus line terminal on Thepharak Road since the space is not utilized. This reduces expropriation impacts on people, housing, and shops in Samrong market. • At Thepharak intersection the Yellow Line consultants should coordinate with engineers of the Green Line to design the station's entrance to minimize impacts of land expropriation. |
| | | Office of Archaeology, Fine Arts Department | 2 September 2013 | <p>Fine Arts Department has appointed an archaeological conservation working group to provide feedback on Skytrain projects in Bangkok. Concerns included:</p> <ul style="list-style-type: none"> • Details of the project route to determine potential impacts based on the Fine Arts Department database. • What are advantages-disadvantages of a monorail system? • How about noise and vibration of from a monorail train? • Preliminary project information will be presented to the Committee on Conservation of Historic Places in Bangkok for consideration. |
| 3 | Educational Institution | | | |
| 4 | Medical Facility | Lat Phrao Hospital | 18 October 2013 | <ul style="list-style-type: none"> • The entrance – exit of Mahatthai station (Wang Thonglang) located in front of the Lat Phrao Hospital. That designs will close the entrance – exit of building 2, which is X-ray room |

| No | Type of Stakeholder | Group | Date of Meeting | Social Concerns Raised |
|----|-----------------------|------------------------------------|-------------------|---|
| | | | | <p>Building of Lat Phrao Hospital. Proposed to Avoid the area in front of the Hospital, by move the entrance – exit to be in front of Techacharas Honda Automobile Co., Ltd., which is an open area. No structural obstacles which may be more appropriate.</p> <ul style="list-style-type: none"> • During construction, should have environmental mitigation measures to control noise, vibration and dust. • Transportation of materials and equipment should be in accordance with relevant laws to minimize impact on people using Lat Phrao Hospital. • Requested the station plan for Mahatthai station, located in front of the Lat Phrao Hospital to present to executives of Lat Phrao Hospital for consideration for benefit sharing with MRTA. |
| 5 | Religious Institution | | | |
| 6 | Local Government Unit | Director of Prawet District Office | 18 September 2013 | <ul style="list-style-type: none"> • Agree on the Yellow Line Mass Transit Project with the monorail system. • Proposed to relocate the Si Udom station to be around Udomsuk intersection. Also, design the entrance-exit on both sidewalks to reduce land expropriation for constructing the Yellow Line. • During construction period, should have measures to control transport of construction materials and equipment. • If there is a need to obstruct public routes, there should be coordination with responsible organizations. Proper diversions should be prepared with clear signage for pedestrians 1 month prior to implementation. |
| | | Mayor of Samrong Nua Municipality | 20 September 2013 | <ul style="list-style-type: none"> • If there is a need to obstruct public routes, there should be coordination with responsible organizations. Proper diversions should be prepared with clear signage for pedestrians 3 months prior to implementation. • Temporary drainage measures should be implemented during construction to prevent flooding on Thepharak Road. • Proposed to relocate the Si Dan station to Wat Dansamrong junction (Soi Sukhumvit 113) to accommodate the public traveling in Bangphli Industrial Estate and Sukhumvit Road. |

| No | Type of Stakeholder | Group | Date of Meeting | Social Concerns Raised |
|----|---------------------|---|-------------------|---|
| | | Director of Wang Thonglang District | 20 September 2013 | <ul style="list-style-type: none"> • Extension of the Yellow Line route to connect with Bang Phli Industrial Estate, Wat Lung Pho Tao and King Kaew Road. • There are concerns during the project construction period, on the water supply system during the dismantling of the water supply pipes, which will suffer the people in Lat Phrao Road. And should have a good traffic management to alleviate traffic congestion during construction. • During construction, there will be traffic jams. Should have a good traffic management to alleviate traffic congestion, which normally very awkward. • What is the passenger capacity of each train car? And how many passengers in one train? • What is the frequency of each train? • Safety must come first. • What is the source of funding of the 2 billion baht for the Yellow Line? • Relocation of utility systems will 18 to 24 months; when will construction begin and the Yellow Line operate? • What is the fare of the Yellow Line? • What are the noise and vibration impact of Yellow Line operations on people? |
| | | Public Works Subdivision, Bang Na District Office | 7 October 2013 | <ul style="list-style-type: none"> • Agree on the Yellow Line Mass Transit Project with the monorail system. • Proposed design entrance – exit of the stations to be inside of each sidewalk or 15 meters set-back to minimize expropriation impact on people around Si La Salle and Si Bearing stations. • Proposed relocation of Si Dan station to Wat Dan Samrong junction area (Sukhumvit 113) to accommodate the public traveling in Bangphli Industrial Estate and Sukhumvit Road. • If there is a need to obstruct public routes, there should be coordination with responsible organizations. Proper diversions should be prepared with clear signage for pedestrians prior to implementation. • Should design an Emergency Walkway to evacuate passengers quickly enough in an emergency. |

| No | Type of Stakeholder | Group | Date of Meeting | Social Concerns Raised |
|----|------------------------|---|---|---|
| 10 | Public Utility Company | | | |
| 11 | Community | Prawet Community Board | 19 September 2013 | <ul style="list-style-type: none"> When will the construction begin and be completed? |
| | | Community Public Hearing No. 1 Total participants: 337 | First meeting: 21 and 22 September 2013 | Social concerns: <ul style="list-style-type: none"> Some consultations should take place on weekends so that people who are working also can participate Have the locations of all the stations already been selected? Are the locations of the stations available on the Internet? |
| | | Community Public Hearing No. 2 Total participants: 353 | 26 October 2013 | Economic concerns: <ul style="list-style-type: none"> When will construction be completed? Will construction be completed as planned in 2019? Construction will impact on the local community The Government should establish a fund for people impacted by the project Construction of the MRT Yellow Line has much more impact on communities than previous lines. Does MRTA think that the cost of the impacts is worth the investment necessary? Will the fare for the MRT Yellow Line really be 20 baht? Is the MRT Yellow Line the last rail line to be constructed? Is this because of the lack of budget funds or because of opposition by the people? What is the capacity of this rail system? Explain the conveniences that will be made available for passengers who are children, women, elder people, and handicapped people Other concerns: <ul style="list-style-type: none"> During the construction phase, how will traffic be managed? How much experience do the consulting companies have that are hired to work on various issues related to construction of the MRT Yellow Line Project? If only one portion of the immovable property is expropriated and only a small portion remains, how will this be managed? Most of the AP who have provided information to MRTA are not the |

| No | Type of Stakeholder | Group | Date of Meeting | Social Concerns Raised |
|--|---------------------|-------------------------|-----------------|--|
| | | | | owners but lessees who occupy the property. Owners are unaware of the expropriation. |
| 12 | Multi-Stakeholders | Ratchada Forest Project | 20 August 2013 | <ul style="list-style-type: none"> • The Yellow Line Project passes the construction area of Ratchada Forest Project, making it a public building. Constructing the Ratchada Station in nearby could make it a joint venture with the private sector. • But Ratchada Forest Project has a clear construction schedule, while the schedule for the Yellow Line is not clear. • Concern is about traffic during construction, especially on Lat Phrao Road. |
| <p>Source: <i>Report on Changes in Project Details in the EIA Reports on the Bangkok Mass Transit Yellow Line Project: Lat Phrao-Samrong, combining the EIA Report for the MRT Yellow Line Project (Ratchada-Lat Phrao-Phatthanakan) and the EIA Report for the MRT Dark Yellow Line Project (Phatthanakan-Samrong)</i>; prepared by Asian Engineering Consultants Co., Ltd; Hamburg-Consult GmbH; D2 Consult Asia Co., Ltd; Wisit Engineering Consultants Co., Ltd; Prime Street Advisory Co., Ltd. (Thailand); and, Enrich Consultant Co., Ltd; April 2016; Chapter 9.</p> | | | | |